1771.

SUPREME COURT OF THE UNITED STATES.

No. 140.

JOSHUA B. BOND, ADM'R OF MARY ANN CODE, PLAINTIFF IN ERROR,

vs.

JAMES BROWN.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES, FOR THE EASTERN DISTRICT OF LOUISIANA.

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United States circuit court, district of Louisiana.

JAMES BROWN vs. J. B. BOND, adm'r. } No. 1696.

Pleas and proceedings before the honorable circuit court, fifth circuit and district of Louisiana, at a circuit court of the United States, in and for the fifth circuit and district aforesaid, being the December term of said court, held at the city of New Orleans, on the 28th day of February, A. D. one thousand eight hundred and forty-nine.

Be it remembered, that heretofore to wit, on the 7th day of April, A. D. 1848, came James Brown, by his attorney, Thomas G. Morgan, esq., in the clerk's office of said court, and *and* filed his petition, which reads in the following words and figures, to wit:

Petition.

To the honorable the judges of the circuit court of the United States, in and for the fifth circuit and district of Louisiana:

The petition of James Brown, a citizen of the State of Mississippi, respectfully represents:

That James A. Witherspoon, late of the parish of Terrebonne, State of Louisiana, deceased, and who, at the time of his decease, was a citizen of the State of Louisiana, and left a large estate, consisting of lands, slaves, [and] personal property, situate, lying, and being in the parish of Terrebonne aforesaid, and within the jurisdiction of this honorable court, was at the time of his decease, indebted to your petitioner in the sum of fourteen thousand dollars, with interest at the rate of five per cent. per annum from the eleventh day of January, in the year 1837, for this, to wit:

That on the third day of October, in the year eighteen hundred and twenty-five, the said James A. Witherspoon made and executed his certain penal bond, or obligation, in and by which he promised to pay to your petitioner, or his heirs, executors, or assigns, the aforesaid sum of fourteen thousand dollars; the condition of which said penal obligation was such that, whereas your petitioner had, on the day of the date thereof, given unto the said Witherspoon a power of attorney to prosecute and defend at law or in equity all the personal property that he, this petitioner, got by his late deceased wife, consisting of twenty-five slaves, together with certain personal property, in the said writing more particularly described; and also reciting that your petitioner, at the same time, had given to him, the said Witherspoon, a bill of sale of all the property therein above described; and upon the further condition that the said Witherspoon was to defend all suits that were, or might thereafter be brought against the said property, and to pay all costs that might be incurred touching the same.

And if the said Witherspoon should well and truly pay and deliver

to your petitioner the one-half of all the slaves and property so recovered, then the said obligation was to be null and void; otherwise to remain in full force and virtue. All of which will more fully appear by the said bond, hereunto annexed, and prayed to be taken as part of this petition.

Now, your petitioner avers, that, in pursuance of the terms and stipulations of the obligation, the said Witherspoon did prosecute and defend certain suits in the State of Mississippi; and by force and effect of the judgments rendered therein, the title of your petitioner to the slaves and other property mentioned and described in said obligation was vested in your petitioner; and the whole thereof were taken possession of by the said Witherspoon, in pursuance of the power of attorney and sale, recited in the obligation herein before referred to and annexed.

Your petitioner further represents, that the said Witherspoon, unmindful of his obligations towards your petitioner, and of the terms and conditions of the obligation aforesaid, and contriving and intending to defraud your petitioner out of his just rights, clandestinely removed the said slaves from the State of Mississippi, and brought them into the State of Louisiana, without the knowledge or consent of petitioner, and contrary to his will, and continued to use and employ said slaves as his own property until the time of his decease, although he had been often amicably required, during his lifetime, and his heirs and legal representatives have, since his decease, been requested, to deliver to your petitioner the one-half of the slaves named in said obligation, together with their increase; and he was, and his heirs and representatives have frequently been, requested to restore the one-half of the personal property aforesaid, or the value thereof, which he and they have and do refuse.

And your petitioner further represents, that the said James A. Witherspoon died in or about the year 1837, leaving the following legitimate descendants and forced heirs, to wit: William H., Elias M., and Mary Jane Witherspoon; that the said Mary Jane died about the year 1837, without leaving legitimate ascendants or descendants, and her interest in the estate of their father was inherited by the said William H. and Elias M. Witherspoon, who took possession of, and accepted the succession of their said father and sister; that on the 6th day of May, in the year 1837, the said William H. Witherspoon and the said Elias M. Witherspoon addressed a letter to your petitioner, stating, among other things, that they were in possession of the property mentioned and described in the obligation first herein before referred to, as will be seen by the said letter hereunto annexed as part of this petition, marked (B;) that in the year one thousand eight hundred and forty, the said William H. Witherspoon departed this life without leaving legitimate ascendants or descendants, and his estate was accepted and taken possession of by his said brother, Elias M. Witherspoon, as his heir; that the said Elias M. Witherspoon intermarried with one Mary Ann Cade, and had by her one child, issue of said marriage, whose name is at present unknown to your petitioner; that said Elias M. died in the

United States circuit court, district of Louisiana.

JAMES BROWN
vs.
J. B. BOND, adm'r. } No. 1696.

Pleas and proceedings before the honorable circuit court, fifth circuit and district of Louisiana, at a circuit court of the United States, in and for the fifth circuit and district aforesaid, being the December term of said court, held at the city of New Orleans, on the 28th day of February, A. D. one thousand eight hundred and forty-nine.

Be it remembered, that heretofore to wit, on the 7th day of April, A. D. 1848, came James Brown, by his attorney, Thomas G. Morgan, esq., in the clerk's office of said court, and *and* filed his petition, which reads in the following words and figures, to wit:

Petition.

To the honorable the judges of the circuit court of the United States, in and for the fifth circuit and district of Louisiana:

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That James A. Witherspoon, late of the parish of Terrebonne, State of Louisiana, deceased, and who, at the time of his decease, was a citizen of the State of Louisiana, and left a large estate, consisting of lands, slaves, [and] personal property, situate, lying, and being in the parish of Terrebonne aforesaid, and within the jurisdiction of this honorable court, was at the time of his decease, indebted to your petitioner in the sum of fourteen thousand dollars, with interest at the rate of five per cent. per annum from the eleventh day of January, in the year 1837, for this, to wit:

That on the third day of October, in the year eighteen hundred and twenty-five, the said James A. Witherspoon made and executed his certain penal bond, or obligation, in and by which he promised to pay to your petitioner, or his heirs, executors, or assigns, the aforesaid sum of fourteen thousand dollars; the condition of which said penal obligation was such that, whereas your petitioner had, on the day of the date thereof, given unto the said Witherspoon a power of attorney to prosecute and defend at law or in equity all the personal property that he, this petitioner, got by his late deceased wife, consisting of twenty-five slaves, together with certain personal property, in the said writing more particularly described; and also reciting that your petitioner, at the same time, had given to him, the said Witherspoon, a bill of sale of all the property therein above described; and upon the further condition that the said Witherspoon was to defend all suits that were, or might thereafter be brought against the said property, and to pay all costs that might be incurred touching the same.

And if the said Witherspoon should well and truly pay and deliver

to your petitioner the one-half of all the slaves and property so recovered, then the said obligation was to be null and void, otherwise to remain in full force and virtue. All of which will more fully appear by the said bond, hereunto annexed, and prayed to be taken as part of this petition.

Now, your petitioner avers, that, in pursuance of the terms and stipulations of the obligation, the said Witherspoon did prosecute and defend certain suits in the State of Mississippi; and by force and effect of the judgments rendered therein, the title of your petitioner to the slaves and other property mentioned and described in said obligation was vested in your petitioner; and the whole thereof were taken possession of by the said Witherspoon, in pursuance of the power of attorney and sale, recited in the obligation herein before referred to and annexed.

Your petitioner further represents, that the said Witherspoon, unmindful of his obligations towards your petitioner, and of the terms and conditions of the obligation aforesaid, and contriving and intending to defraud your petitioner out of his just rights, clandestinely removed the said slaves from the State of Mississippi, and brought them into the State of Louisiana, without the knowledge or consent of petitioner, and contrary to his will, and continued to use and employ said slaves as his own property until the time of his decease, although he had been often amicably required, during his lifetime, and his heirs and legal representatives have, since his decease, been requested, to deliver to your petitioner the one-half of the slaves named in said obligation, together with their increase; and he was, and his heirs and representatives have frequently been, requested to restore the one-half of the personal property aforesaid, or the value thereof, which he and they have and do refuse.

And your petitioner further represents, that the said James A. Witherspoon died in or about the year 1837, leaving the following legitimate descendants and forced heirs, to wit: William H., Elias M., and Mary Jane Witherspoon; that the said Mary Jane died about the year 1837, without leaving legitimate ascendants or descendants, and her interest in the estate of their father was inherited by the said William H. and Elias M. Witherspoon, who took possession of, and accepted the succession of their said father and sister; that on the 6th day of May, in the year 1837, the said William H. Witherspoon and the said Elias M. Witherspoon addressed a letter to your petitioner, stating, among other things, that they were in possession of the property mentioned and described in the obligation first herein before referred to, as will be seen by the said letter hereunto annexed as part of this petition, marked (B;) that in the year one thousand eight hundred and forty, the said William H. Witherspoon departed this life without leaving legitimate ascendants or descendants, and his estate was accepted and taken possession of by his said brother, Elias M. Witherspoon, as his heir; that the said Elias M. Witherspoon intermarried with one Mary Ann Cade, and had by her one child, issue of said marriage, whose name is at present unknown to your petitioner; that said Elias M. died in the

year eighteen hundred and forty-two, his wife, the said Mary Ann, and her said child surviving him; that after the decease of the said Elias M., and during the year 1842, or thereabouts, the said child, issue of the marriage of the said Elias M. and Mary Ann, departed this life, unmarried and without leaving legitimate issue; and the said Mary Ann Cade, widow of the said Elias M., and mother of the said deceased infant, took possession, as heir of said infant, of all the estate of the said Elias M. and of the said infant child; which said estate consisted in whole or in part of property and estate of the aforesaid James A. Witherspoon; that the said Mary Ann Cade, widow of Elias M. Witherspoon, departed this life in or about the year eighteen hundred and forty-three, without leaving any legitimate descendants or other heirs known to your petitioner; that subsequent to the death of the said Mary Ann, by virtue and in pursuance of an order or decree of the honorable the court of probates, in and for the parish of Terrebonne aforesaid, J. C. Beatty, of said parish, was appointed administrator of the estate of the said Mary Ann; that he, the said Beatty, having settled his account as administrator, obtained a discharge from his said trust of administrator, and Joshua Bosley Bond was, by order or decree of the said court of probates, in and for said parish, appointed administrator of said estate, and having complied with the requirements of the law in such cases, took possession of the whole of said estate as administrator as aforesaid, and still holds the same; that the said Joshua Bosley Bond is a citizen of the State of Louisiana, residing in the parish of Terrebonne aforesaid, and within the jurisdiction of this honorable court; and the estate of the said Mary Ann is also situate in the same parish, and now under course of administration therein.

The premises being considered, your petitioner represents, that the estate of Mary Ann Cade, widow of the late Elias M. Witherspoon aforesaid, is justly indebted to him in the sum of fourteen thousand dollars, with interest at the rate of five per cent. per annum, from the eleventh day of January, in the year eighteen hundred and thirty-seven, until paid, which said sum has been amicably demanded of the said administrator, and he has neglected and refused to pay or to recognise as a valid claim against the said estate, now by him administered as aforesaid, although he has ample funds and property in his possession.

Wherefore your petitioner prays, that the said Joshua Bosley Bond, administrator as aforesaid, may be duly cited to appear in your honorable court to answer the prayer of this petition, and that he be ordered, adjudged, and decreed to pay to your petitioner, in due course of administration, the aforesaid sum of fourteen thousand dollars, with interest at the rate of five per cent. per annum, from the eleventh day of January, in the year eighteen hundred and thirty-seven, and costs of this suit; and your petitioner further prays for general relief in the premises.

THOMAS GIBBS MORGAN, *Attorney for petitioner.*

Bond referred to in the foregoing petition.

STATE OF MISSISSIPPI, *Franklin county.*

Know all men by these presents, that I, Jas. A. Witherspoon, are held and firmly bound unto Jas. Brown, of the county and State afore-

said, in the penal sum of fourteen thousand dollars, good and lawful money of the State aforesaid, to be paid to the said James Brown, his heirs, executors, administrators, or assigns; to which payment, well and truly to be made, I bind myself, my heirs, executors or administrators, or assigns, firmly by these presents. Sealed with my seal, and dated this the 3d day of October, 1825.

Whereas James Brown hath this day given to the said James A Witherspoon a power of attorney, to prosecute and defend, at law or in equity, all the personal property that the said James Brown got by his late decensed wife Eliza, to wit, twenty-five negro slaves, which are as follows: Green, Milly and her child Venus, Amps, Diamond, Luce, Jim, Grace, Captain, Mariah and her two children Henry and Mary, Harry, Esther, Mack. George, Juno, Patsy, Linan, Clien and her two children Jackson and Bartlett, Penny, Sylvia, and Cinthia.

Together with the following described personal property, to wit, two yoke of oxen, also twenty-five head of cattle, more or less, marked with a swallow fork in one ear, and a cross and half cross in the other; one wagon, also three head of horses, and three head of mules; all the household and kitchen furniture, with the farming utensils. The said James Brown has also this day given to the said James A. Witherspoon a bill of sale of all the above described property. The condition of the above obligation is such, that the said James A. Witherspoon is to defend all suits that is, or may hereafter be instituted, at law or in equity, against the above described property in any manner whatsoever; the said Jas. A. Witherspoon to pay all costs that may be accrued in the recovery of said property. And if the said James A. Witherspoon shall well and truly pay to the said James Brown the half of all the slaves so recovered at law, with all the other described property, then this obligation to be void, otherwise to remain in full force and virtue.

JAS. A. WITHERSPOON. [SEAL.]

Signed, sealed, and delivered in the presence of—
RUFUS K. PICKETTS,
GRAY BRIGGS.

Filed 7th April, 1848. HOIT, *Dep. Clerk.*

UNITED STATES CIRCUIT COURT,
Fifth circuit and district of Louisiana.

I certify the foregoing to be a true copy from the original withdrawn by leave of court.

ED. RANDOLPH, *Clerk.*

New Orleans, 28th November, 1848.

Document B, referred to in petition.

(B.)

HOUMA P., TERREBONNE, LA.,
May 5th, 1837.

Mr. JAMES BROWN.

DEAR SIR: When we parted, our promise was to meet in Liberty

some weeks after the court, at which time we did not see each other or since; if it had not been for some of my misfortunes I would have come and seen you. I have been so unfortunate as to lose my mother, and a loss it is, for it appears to have been all the friend I had on earth. Since I saw you last, I went to Jackson and saw Mr. Webber, the attorney of my father and you in the case against Been and others. I have sent my brother to see you about settling the affairs. Our attorney has gained the property, and you can make arrangements for settlements with my brother Elias, and I hope to the satisfaction of both parties, as I have every faith in you; if you could so arrange it as to come down when you receive this letter, I would be glad. I would have written to you some time ago, but my brother was coming to Liberty, and I thought it better to wait some time, than for it to be miscarried by mail. I sincerely hope we can settle according to the contract between you and my father.

The suit was instituted long since, and caused a great deal of trouble and expense, and I think by your coming down we can arrange matters satisfactory to all. I do wish you would or could come down and see our crops, which are very prospering.

Write me as soon as you receive this letter.

Your obedient servant,

W. H. WITHERSPOON.

Mr. Brown.

Dear sir: I send this letter by mail from Liberty, as I think it unnecessary for me to come down at present. Please write to me; direct your letter to Meadville, Miss.

I remain, yours, &c.,

ELIAS M. WITHERSPOON.

Mr. James Brown, esq., Rose Hill, Amite c'ty, Miss.

Filed 7th April, 1848. HOIT, *Dep. Clerk.*

United States circuit court, fifth circuit and district of Louisiana.

I certify the foregoing to be a true copy from the original, withdrawn by leave of court.

New Orleans, 28th November, 1848.

ED. RANDOLPH.

And afterwards, to wit, on the 27th November, 1848, came the defendant, by his attorney, I. T. Preston, esq., and filed in the clerk's office the following answer to plaintiff's petition:

To the honorable circuit court of the United States, in and for the fifth circuit and district of Louisiana, the answer of Joshua B. Bond, administrator of the estate of Mary Ann Witherspoon, to the petition of James Brown against him, respectfully shews:

That he denies that he, or the estate represented by him, is liable for claims against John A. Witherspoon, deceased, or represents his estate; and denies the allegations in the petition contained material to charge the estate administered by him, and requires proof of the documents sued upon, the signatures to which he knows not.

If, however, this defence is overruled, he alleges that he has no knowledge of the transactions stated in plaintiff's petition contained, and requires proof of them. He has been informed, however, and believes, and so pleads, that the sale made by plaintiff to John A. Witherspoon, set up in plaintiff's petition, was fraudulent, and merely intended to cover the slaves therein mentioned from the heirs and creditors of the estate of one Nathan King, the first husband of the plaintiff's deceased wife; and that the said sale was cancelled by the parties more than twenty years ago; and that Witherspoon was never in possession of the property under said sale.

Your respondent, moreover, is informed, believes, and pleads, that the plaintiff did agree to give said Witherspoon one half of the slaves and property in plaintiff's petition described, for and in consideration of undertaking to defend, at his cost and expense, the whole of said slaves and property against the suits of the heirs and creditors of the estate of Nathan King against the whole of said property; that, in pursuance of said agreement, plaintiff did give Witherspoon a small part of said slaves more than twenty years ago; and in consideration thereof the said Witherspoon did faithfully and successfully defend the whole of said property against many suits at law and in chancery, and with immense expense and trouble, and quieted the plaintiff in the possession of the other slaves and all other property; nevertheless, the plaintiff unfaithfully failed to deliver over, according to his contract, the full half of the property defended, or to account for the profits of the same to said Witherspoon.

Your respondent pleads the prescriptions of three, five, ten, fifteen, and twenty years against the personal action of plaintiff and in favor of the title and possession of John A. Witherspoon, of and to any slaves obtained from the plaintiff, and that he may have judgment against plaintiff's demand and for costs.

And he prays for general relief and liberty to amend his answer as to any thing he shall discover in relation to these ancient transactions, of which he knows nothing personally.

As in duty bound, &c.

ILLSEY & PRESTON,
Attorneys for defendant.

And afterwards, to wit, on the first day of February, A. D. 1849, this order was entered upon the minutes of said court, which reads in the words and figures following, to wit:

JAMES BROWN
vs. } 1696.
J. B. BOND, administrator.

On motion of defendant's counsel, and by agreement of the parties, ordered, that this case be fixed for trial on Tuesday, the 27th day of February instant.

And afterwards, to wit, at the December term, A. D. 1848, on the 27th day of February, A. D. 1849, this order was entered upon the

minutes of the court, which reads in the words and figures following, to wit:

JAMES BROWN
vs.
J. B. BOND, administrator. } 1696.

The trial of this cause being assigned for this day, appeared the respective parties, by their counsel, T. G. Morgan, esq., for the plaintiff, and I. T. Preston, esq., for the defendant, when said cause was taken up, and after evidence it was admitted by the counsel of both parties that the common laws prevail in Mississippi, except when changed by statutes; the argument proceeded until 3 o'clock, p. m., whereupon the judge ordered that this case be continued until to-morrow, at 10 o'clock, a. m.

And afterwards, to wit, on the 28th day of February, A. D. 1849, this cause came up for trial, and this order was entered upon the minutes, which reads as follows, to wit:

JAMES BROWN
vs.
J. B. BOND, adm'r, &c. } 1696.

The trial of this cause, as continued from yesterday, was this day resumed; when, after argument of counsel being closed, the case was submitted to the court, who took the same under advisement.

And afterwards, to wit, on the 18th day of June, A. D. 1849, it being the April term of said court, the following judgment was entered up, which reads in these words and figures, to wit:

JAMES BROWN
vs.
J. B. BOND, adm'r, &c. } 1696.

This cause having been argued and submitted to the court, on a former day, on the pleadings, law, and evidence, and the court having maturely considered the same, and being fully advised in the premises, and satisfied that the plaintiff has fully substantiated the allegations in his petition, it is ordered, adjudged, and decreed that judgment be rendered in favor of the plaintiff, James Brown, and against the defendant, Joshua B. Bond, administrator of the estate of Mary Ann Cade, widow of Elias M. Witherspoon, for the sum of fourteen thousand dollars, with interest thereon at the rate of five per centum per annum from the eleventh day of January, in the year eighteen hundred and thirty-seven, until paid, and costs of suit to be taxed.

Judgment rendered 13th June, 1849.

Judgment signed 18th June, 1849.

THEO. H. McCALEB, [SEAL.]
U. S. Judge.

And afterwards, to wit, at the same term of said court, on the 20th day of June, A. D. 1849, this order was entered upon the minutes of said court, which reads in the words and figures following, to wit:

JAMES BROWN
vs.
JOSHUA B. BOND, adm'r, &c. } 1696.

On motion of Isaac T. Preston, of counsel for defendant herein, and on his filing his petition, representing to the court that the said defendant felt aggrieved at the judgment rendered aganist him on the 18th day of June, 1849, and praying for a writ of error, to operate as a supersedeas, to issue, returnable to the next term of the Supreme Court of the United States, it is ordered, that a writ of error be, and the same is hereby, allowed to the said defendant, returnable at the next term of the Supreme Court of the United States of America, on his furnishing his bond, with good and sufficient security, to be approved by the court, in the penal sum of thirty-five thousand dollars, conditioned as the law requires.

JAMES BROWN
vs.
JAMES C. CAIN et al.

Pleas before the honorable Harry Cage, one of the judges of the circuit court of law of the State of Mississippi, at a circuit court holden in and for the county of Franklin, at the court-house thereof, on the first Monday in October, in the year of our Lord one thousand eight hundred and twenty-nine.

Be it remembered, that heretofore, to wit, on the twenty-fifth day of March, A. D. one thousand eight hundred and twenty-six, there was issued from the clerk's office of the court aforesaid a writ, in the words and figures following, to wit:

STATE OF MISSISSIPPI, *Franklin county*.

The State of Mississippi, to the coroner of Franklin county, greeting:

You are hereby commanded, without delay, to take James C. Cain, Bartlett Ford, James C. Hawley, Osborne Ford, and Benjamin Grubbs, wheresoever they may be found in your county, and them safely keep, so that you have their bodies before the judges of the State aforesaid, at a circuit court to be holden at the court-house in and for the county of Franklin, on the 2d Monday in April next, to answer to James Brown in a plea of trespass, to his damage ten thousand dollars; and have then there this writ.

Witness the honorable Edward Turner, presiding judge of the second judicial district of the State aforesaid, at the court-house of said county, the 2d Monday in October, in the year of our Lord one thousand eight hundred and twenty-five, and in the 50th year of the independence of the United States of America.

Issued the 25th day of March, 1826.

JAS. A. WITHERSPOON, *Clerk*.

Upon which said writ was the following endorsement:

This action is brought to recover damages for a trespass committed by the defendants, in seizing and removing from the possession the following negro slaves, to wit: Diamond, Luce, Jim, Grace, Captain,

Maria and her two children, Harry, Esther, Mack, George, Juno, Patsey, Linder, Clier and her two children Penny and Silvy.

GRAYSON & ADAMS,
For plaintiff.

Rec'd April 3d, 1826; served April 4th, 1826.

JAMES CAMERON, *Coroner.*

And at the time of issuing the writ aforesaid came the plaintiff, and filed his bill in the words and figures following, to wit:

STATE OF MISSISSIPPI, *Franklin county.*

Circuit court, April term, 1826.

James Brown complains of James C. Cain, Bartlett Ford, James C. Hawley, Osborne Ford, and Benjamin Grubbs, in custody, &c., of a plea of trespass; for that, whereas the said defendant, on the sixteenth day of September, in the year of our Lord one thousand eight hundred and twenty-five, and on divers other days and times between that day and the time of commencing this suit, with force and arms, to wit, in the county aforesaid, seized, took, and led away, certain negro slaves, to wit, Diamond, Luce, Jim, Grace, Captain, Maria and her two children, Harry, Esther, Mack, George, Juno, Patsey, Lindy, Clio and her two children Penny and Silvey, then and there being in the possession of him, the said Brown, of great value, to wit, ten thousand dollars, and kept and detained the same from the said plaintiff for a long space of time, to wit, for the space of six months, and converted and disposed thereof to their, the said defendants, own use; and thereby the said plaintiff was hindered and prevented from carrying on his necessary business, and thereby lost and was deprived of all the profits, benefits, and advantages, which might and would otherwise have arisen and accrued to him thereupon, to wit, at the county court aforesaid.

And, also, for that the said defendant, on the sixteenth day of September, in the year of our Lord one thousand eight hundred and twenty-five, with force and arms, to wit, in the county aforesaid, seized, took, and led away certain other negro slaves, to wit, Diamond, Luce, Jim, Grace, Captain, Maria and her two children, Harry, Esther, Mack, George, Juno, Patsey, Linda, Clio and her two children Penny and Silvey, of the said plaintiff, of great value, to wit, ten thousand dollars, then and there found and being, and converted and disposed of the same to their own use, and other wrongs to the said plaintiff then and there did, against the peace and dignity of the State of Mississippi, and to the damage of the said plaintiff ten thousand dollars; and thereupon he sues, &c.

GRAYSON & ADAMS, *Plaintiff's attorneys.*

And afterwards, to wit, at the same term of the court aforesaid, came the said defendants and filed their pleas, in the words and figures following, to wit:

JAMES BROWN
vs.
JAMES CAIN et al.

In Franklin circuit court, October term, 1826.

And the said defendants, by their attorneys, come and defend the force and injury, when, &c.; and for plea say they are not guilty in manner and form as the said plaintiff hath above thereof complained against them; and of this they put themselves upon the country.

VANNERSON, *for defend't.*

And the plaintiff doth the like.

A. & S. GRAYSON, *for pl'ff.*

And the said defendant, James C. Cain, for further plea in this behalf, by leave of the court here for that purpose first had and obtained, according to the statute in such case made and provided, says, that the said plaintiff ought not to have and maintain his aforesaid action thereof against him, because, he says, that at the time when the said supposed taking and carrying away of the said slaves, as in the said declaration mentioned, the said defendant, James C. Cain, then being the deputy sheriff of one Dempsey P. Cain, sheriff of Franklin county, in the State of Mississippi, by virtue of a certain writ of fieri facias before that time issued from the circuit court of the said county of Franklin, to the said sheriff of the said county directed, he, said sheriff, was commanded thereby, of the goods and chattels, lands and tenements, of the estate of Nathaniel King in his lifetime, then deceased, in the hands of one Bartlett Ford, executor of the said Nathan King, deceased, the sum of seven thousand five hundred and eighty dollars, which one *one* John Vandervall had before that time recovered against him, the said Bartlett Ford, executor as aforesaid, for his damage which he the said John Vandervall had sustained (as by the said writ it was said) by reason of a certain non-performance and undertaking of a certain promise and assumption by the said Bartlett Ford, executor as aforesaid, with interest on said sum, at eight per centum per annum, from the 13th day of April, eighteen hundred and twenty-three, until paid. And also he, the said James C. Cain, was commanded to make the further sum of seventy-five dollars for the costs of the said John in this behalf expended, whereof the said Bartlett, executor as aforesaid, was convicted, as by the said writ, it was said, appeared of record.

And that the said sheriff was, by the said writ, farther commanded to have the said sum of money before the judges of the said State of Mississippi, at a circuit court to be holden at the court-house of the said county of Franklin, on the second Monday in October then next, to render to the said John for his damages and costs aforesaid, and to have then and there the said writ; which said writ bears teste on the second Monday in April, in the year of our Lord one thousand eight hundred and twenty-five, and was dated the 15th day of September, in the same year, under the signature of James A. Witherspoon, clerk of said court, and the seal thereof; which said writ to the said sheriff of the said county so being directed, was delivered to the said James C. Cain, deputy sheriff as aforesaid, on the 16th day of September, in the year aforesaid, by virtue of which he, the said James C. Cain, deputy as aforesaid, afterwards, and before the return of the said writ, to wit, at

Maria and her two children, Harry, Esther, Mack, George, Juno, Patsey, Linder, Clier and her two children Penny and Silvy.

GRAYSON & ADAMS,
For plaintiff.

Rec'd April 3d, 1826; served April 4th, 1826.

JAMES CAMERON, *Coroner.*

And at the time of issuing the writ aforesaid came the plaintiff, and filed his bill in the words and figures following, to wit:

STATE OF MISSISSIPPI, *Franklin county.*

Circuit court, April term, 1826.

James Brown complains of James C. Cain, Bartlett Ford, James C. Hawley, Osborne Ford, and Benjamin Grubbs, in custody, &c., of a plea of trespass; for that, whereas the said defendant, on the sixteenth day of September, in the year of our Lord one thousand eight hundred and twenty-five, and on divers other days and times between that day and the time of commencing this suit, with force and arms, to wit, in the county aforesaid, seized, took, and led away, certain negro slaves, to wit, Diamond, Luce, Jim, Grace, Captain, Maria and her two children, Harry, Esther, Mack, George, Juno, Patsey, Lindy, Clio and her two children Penny and Silvey, then and there being in the possession of him, the said Brown, of great value, to wit, ten thousand dollars, and kept and detained the same from the said plaintiff for a long space of time, to wit, for the space of six months, and converted and disposed thereof to their, the said defendants, own use; and thereby the said plaintiff was hindered and prevented from carrying on his necessary business, and thereby lost and was deprived of all the profits, benefits, and advantages, which might and would otherwise have arisen and accrued to him thereupon, to wit, at the county court aforesaid.

And, also, for that the said defendant, on the sixteenth day of September, in the year of our Lord one thousand eight hundred and twenty-five, with force and arms, to wit, in the county aforesaid, seized, took, and led away certain other negro slaves, to wit, Diamond, Luce, Jim, Grace, Captain, Maria and her two children, Harry, Esther, Mack, George, Juno, Patsey, Linda, Clio and her two children Penny and Silvey, of the said plaintiff, of great value, to wit, ten thousand dollars, then and there found and being, and converted and disposed of the same to their own use, and other wrongs to the said plaintiff then and there did, against the peace and dignity of the State of Mississippi, and to the damage of the said plaintiff ten thousand dollars; and thereupon he sues, &c.

GRAYSON & ADAMS, *Plaintiff's attorneys.*

And afterwards, to wit, at the same term of the court aforesaid, came the said defendants and filed their pleas, in the words and figures following, to wit:

JAMES BROWN
vs.
JAMES CAIN et al.

In Franklin circuit court, October term, 1825.

And the said defendants, by their attorneys, come and defend the force and injury, when, &c.; and for plea say they are not guilty in manner and form as the said plaintiff hath above thereof complained against them; and of this they put themselves upon the country.

VANNERSON, *for defend't.*

And the plaintiff doth the like.

A. & S. GRAYSON, *for pl'ff.*

And the said defendant, James C. Cain, for further plea in this behalf, by leave of the court here for that purpose first had and obtained, according to the statute in such case made and provided, says, that the said plaintiff ought not to have and maintain his aforesaid action thereof against him, because, he says, that at the time when the said supposed taking and carrying away of the said slaves, as in the said declaration mentioned, the said defendant, James C. Cain, then being the deputy sheriff of one Dempsey P. Cain, sheriff of Franklin county, in the State of Mississippi, by virtue of a certain writ of fieri facias before that time issued from the circuit court of the said county of Franklin, to the said sheriff of the said county directed, he, said sheriff, was commanded thereby, of the goods and chattels, lands and tenements, of the estate of Nathaniel King in his lifetime, then deceased, in the hands of one Bartlett Ford, executor of the said Nathan King, deceased, the sum of seven thousand five hundred and eighty dollars, which one *one* John Vandervall had before that time recovered against him, the said Bartlett Ford, executor as aforesaid, for his damage which he the said John Vandervall had sustained (as by the said writ it was said) by reason of a certain non-performance and undertaking of a certain promise and assumption by the said Bartlett Ford, executor as aforesaid, with interest on said sum, at eight per centum per annum, from the 13th day of April, eighteen hundred and twenty-three, until paid. And also he, the said James C. Cain, was commanded to make the further sum of seventy-five dollars for the costs of the said John in this behalf expended, whereof the said Bartlett, executor as aforesaid, was convicted, as by the said writ, it was said, appeared of record.

And that the said sheriff was, by the said writ, farther commanded to have the said sum of money before the judges of the said State of Mississippi, at a circuit court to be holden at the court-house of the said county of Franklin, on the second Monday in October then next, to render to the said John for his damages and costs aforesaid, and to have then and there the said writ; which said writ bears teste on the second Monday in April, in the year of our Lord one thousand eight hundred and twenty-five, and was dated the 15th day of September, in the same year, under the signature of James A. Witherspoon, clerk of said court, and the seal thereof; which said writ to the said sheriff of the said county so being directed, was delivered to the said James C. Cain, deputy sheriff as aforesaid, on the 16th day of September, in the year aforesaid, by virtue of which he, the said James C. Cain, deputy as aforesaid, afterwards, and before the return of the said writ, to wit, at

the time when, &c., peaceably and quietly entered upon the premises of him, the said plaintiff, and took and levied upon the said slaves in the said declaration mentioned, for the purpose of levying the money so directed to be levied by the said writ, and by the said writ did then and there, by a sale thereof, convey the same to the said John, as deputy sheriff as aforesaid, as he lawfully might for the same aforesaid, doing no unnecessary damage to the said plaintiff on that occasion; which are the said several supposed trespasses whereof the said plaintiff hath above thereof complained against him, the said defendant, James C. Cain, and Bartlett Ford, Osborne Ford, and Benjamin Grubb; and this he, the said James, is ready to verify. Wherefore he prays judgment if the said plaintiff ought to have or maintain his aforesaid action thereof against him.

VANNERSON, *for defts.*

And afterwards, to wit, at the October term, eighteen hundred and twenty-six, of this court, came the said plaintiff, by his attorneys aforesaid, and filed his demurrer to the said defendants' second plea, which said demurrer is in the words and figures following, to wit:

JAMES BROWN
vs.
JAMES C. CAIN et al.

In Franklin circuit court, October term, 1826.

And the said plaintiff saith, that the said plea of the said James C. Cain by him secondly above pleaded, and the matters therein contained in manner and form as above pleaded and set forth, are not sufficient in law to bar or preclude him, the said plaintiff, from having or maintaining his aforesaid action thereof against him, the said defendant, James C. Cain, and that he, the said plaintiff, is not bound by the law of the land to answer the same; and this he, the said plaintiff, is ready to verify; wherefore, for want of a sufficient plea in this behalf, he, the said plaintiff, prays judgment and his damages, by reason of the several trespasses aforesaid in said declaration mentioned, to be adjudged to him, &c.

ADAMS & SPRAGUE,
And S. M. GRAYSON,
Plaintiff's Attorneys.

Whereupon, by consent of the parties, the plaintiff's demurrer to the defendant's second plea was sustained, and leave given to the defendant to amend his plea upon payment of the costs of this amendment; and this cause was continued until the next court.

And afterwards, to wit, at the April term, in the year of our Lord one thousand eight hundred and twenty-seven, came the parties aforesaid, by their attorneys aforesaid, and the said defendant amends his second plea by him above pleaded, so as to read in form following, to wit:

And the said James C. Cain, for further plea in this behalf by leave

of the court here for that purpose first had and obtained, according to the statutes in such case made and provided, says that the plaintiff ought not to have and maintain his aforesaid thereof against him, because he says that at the time when the said supposed taking and carrying away of the said slaves, as in the said declaration is mentioned, the said defendant, James C. Cain, then being the deputy sheriff of one Dempsey P. Cain, sheriff of Franklin county, in the State of Mississippi, by virtue of a certain writ of fieri facias before that time issued from the circuit court of the said county of Franklin, to the said sheriff of the said county directed, he, the said sheriff, was commanded thereby to make of the goods and chattels, lands and tenements, of the estates of Nathaniel King, in his lifetime, then deceased, in the hands of one Bartlett Ford, executor of the said Nathan King, deceased, the sum of seven thousand five hundred and eighty dollars, which one John Vandervall had before that time recovered against him, the said Bartlett Ford, executor as aforesaid, for his damages which he, said John Vandervall, had sustained (as by the said writ it was said) by reason of a certain non-performance and undertaking of a certain promise and assumption by the said Bartlett Ford, executor as aforesaid, to the said John lately made, with interest on the said sum at eight per centum, from the 13th day of April, eighteen hundred and twenty-three, until paid. And also by the said writ he, the said sheriff, was commanded to make the further sum of seventy-five cents for the cost of the said John in that behalf expended, whereof the said Bartlett, executor as aforesaid, was convicted, as by the said writ it was said appeared of record. And that the said sheriff was by the said writ further commanded to have the said moneys before the judges of the said State of Mississippi, at a circuit court, to be holden at the court-house of the said county of Franklin, on the second Monday in October then next, to render to the said John for his damages and costs aforesaid, and to have then and there the said writ; which said writ have teste on the second Monday in April, in the year of our Lord eighteen hundred and twenty-five, and was dated the 15th day of September in the same year, under the signature of James A. Witherspoon, clerk of the said court, and the seal thereof; which said writ to the sheriff of the said county being so directed, was delivered to the said James C. Cain, deputy sheriff as aforesaid, on the 16th day of September, in the year aforesaid; by virtue of which, he, the said James C., so being deputy sheriff as aforesaid, afterwards and before the return of the said writ, to wit, at the time when, &c., peaceably and quietly entered upon the premises of him, the said plaintiff, and took and levied upon the said slaves in the said declaration mentioned, which were the property of the said estate of Nathan King, deceased, in the hands of the said Bartlett Ford, and liable in law to the levy aforesaid, for the purpose of levying the money so directed to be levied by the said writ; and by the said writ, and then and there by a sale thereof, convey the same to the said John, as deputy sheriff as aforesaid, as he lawfully might for the reason aforesaid, doing no unnecessary damage to the said plaintiff on that occasion; which are the said several supposed trespasses

whereof the said plaintiff hath above thereof complained against him, the said defendant, James C. Cain, Bartlett & Ford, James C. Hawley, Osburn Ford, and Benjamin Grubbs.

And this the said James is ready to verify; wherefore he prays judgment of the said plaintiff ought to have or maintain his aforesaid action thereof against him.

VANNERSON, *for Defendants.*

And afterwards, to wit, at the same term last aforesaid, the said plaintiffs, by their attorneys aforesaid, file their replication to the said second plea of the defendant as amended in form following, to wit:

And for replication to the said defendants' second plea above pleaded, the plaintiff says precludi non, because he says that the said slaves in the said declaration mentioned were not liable to be levied on to satisfy said executor, as the said defendants in pleading have alleged; and of this he puts himself upon the country, &c.

GRAYSON & SPRAGUE,
Attorneys for Plaintiff.

And afterwards, to wit, at the term last aforesaid, this cause was continued to the next term of this court by consent.

And afterwards, to wit, at a circuit court holden in and for the county of Franklin, at the court-house thereof, on the second Monday in October, in the year of our Lord one thousand eight hundred and twenty-seven, this cause was continued to the next term of this court.

And afterwards, to wit, at a circuit court holden in and for the county of Franklin, at the court-house thereof, on the first Monday in April, in the year of our Lord eighteen hundred and twenty-eight, this cause was continued to the next term of this court, by the consent of the parties.

And afterwards, to wit, at a circuit court holden in and for the county of Franklin, at the court-house thereof, on the first Monday in October, in the year of our Lord eighteen hundred and twenty-eight, on motion of the defendant, by his counsel, it was considered and ordered by the court, that the said defendant have leave to file an additional plea in this cause within sixty days, and that a copy thereof be presented to the plaintiff's counsel, and this cause was then continued.

And afterwards, to wit, at a circuit court holden in and for the county of Franklin, at the court-house thereof, on the first Monday in April, in the year of our Lord one thousand eight hundred and twenty-nine, this cause was continued on the affidavit of the plaintiff and at his costs.

And upon motion of the said defendant, by his counsel, it was ordered by the court, that the said defendant have leave to file an additional plea in bar on or before the first day of the next term of this court, so as not to delay trial.

And afterwards, to wit, at a circuit court holden in and for the county of Franklin, at the court-house thereof, on the first Monday in October, in the year of our Lord one thousand eight hundred and twenty-nine, the death of Bartlett Ford and Osborne Ford, (two of the defendants to the plaintiff's action,) being suggested by the plaintiff's coun-

ally thereupon, it was ordered by the court, that the said plaintiff's suit do abate as to the defendants Bartlett Ford and Osburne Ford. And at the same term last aforesaid, upon motion of the plaintiff's counsel, it was ordered by the court, that this suit be dismissed as to all the defendants, except the defendant James C. Cain.

And afterwards, to wit, at this same term, upon motion of the defendant, James C. Cain, by his counsel, it was ordered by this court that the said James C. Cain have leave to withdraw the general issue in this case.

And afterwards, to wit, at the same term of the court last aforesaid, came the plaintiff, as well as the said defendant; whereupon it was ordered by the court that a jury come up; being called, come, to wit: A. J. Carnell, James Roberts, Claiborne Reed, Stephen Middleton, David Laird, Henry Roberts, Alfred Ashley, Timothy Kimball, Needam Lee, Aaron Hickenbottom, John King, and Carter Langley, who, being elected, tried, and sworn, well and truly to try the issue joined, upon their oaths do say: we, the jury, find for the plaintiff, and assess his damages to seven hundred and forty-nine dollars, and costs of suit.

Whereupon it was considered by the court that the said plaintiff, James Brown, do recover of the said defendant, James C. Cain, the sum of seven hundred and forty-nine dollars for his damages.

And it was further considered and ordered by the court that the said James Brown do recover of the said James C. Cain the further sum of one hundred and seven dollars and seventy cents for his costs and charges about his suit in that behalf expended; and the said James C. Cain in mercy, &c.

During the trial of the above cause, and before the jury retired from the bar of the court, the said defendant, James C. Cain, by his counsel, offered a bill of exceptions to the opinion of the court, which were signed, sealed, enrolled, and ordered to be made a part of the record; which said bill of exceptions was in the words and figures following, to wit:

Brown vs. Cain. } Trespass.

Circuit court of Franklin county, October term, 1829.

Be it remembered, that on the trial of the above cause, and during the progress thereof, the plaintiff offered in evidence to support his above directed, &c., in form following, to wit:

State of Mississippi, *Franklin county:*

The State of Mississippi, to the sheriff of Franklin county, greeting:

You are hereby commanded to summon five discreet freeholders as commissioners, connected with Eliza King, or Bartlett Ford, administrator of the estate of Nathan King, deceased, neither by consanguinity or affinity, who, upon oaths, shall set off by metes and bounds to the said petitioner one-third part, according to quantity or quality, of all the lands, tenements, and hereditaments in said county, belonging to

the estate of the said Nathan King, deceased, to comprehend the dwelling-house in which the said Nathan King dwelt next before his death, together with the offices, out-houses, and buildings, and other improvements thereunto belonging; and said commissioners at the same time allot and set off to petitioner one-fourth part of the personal estate of which the said Nathan King was possessed, and to put her in possession of the one-third part of the said lands, tenements, and hereditaments, and of such fourth part of the personal estate, and have then there this writ, before the judges of the State aforesaid, at a circuit court holden at the court-house, in and for the county of Franklin, on the second Monday in April next, and the manner in which you have executed this writ.

Witness the honorable Lewis Winston, presiding judge of the second judicial district of the State aforesaid, at the court-house of said county, the second Monday in October, in the year eighteen hundred and twenty-two, and in the forty-seventh year of the independence of the United States of America.

JAS. A. WITHERSPOON, *Clerk.*

Issued 7th January, 1823.

Upon which writ was made the following return, to wit:

Rec'd 8th January, 1823.

C. C. SLOCUMB, *Sh'ff.*

Executed January 18th, 1823.

C. C. SLOCUMB, *Sh'ff.*

Pursuant to the within order, I proceeded to summon five discreet freeholders, as by said order commanded, viz: William B. Smith, David D. Gibson, Adam Caraway, Peter McIntyre, and Thomas Rowan, who were at the house of Mrs. Eliza King, in Franklin county, on Thursday, the 16th day of January, 1823, except Thomas Rowan, who was indisposed, who being duly qualified, after a session of three days, completed the business for which they were summoned, as will appear by the documents herewith filed, signed by said commissioners.

C. C. SLOCUMB, *Sh'ff.*

To make partition of dower to Mrs. Brown, who was the widow of Nathan King, and by the intermarriage with whom the said plaintiff claimed title to the property for an injury to which this action was brought; to which the defendant, by his counsel, objected, because there was no notice to the heirs proven, or petition from the said Mr. Brown, or any other person, to have her dower allotted; the plaintiff further offered in evidence the division made by commissioners appointed by the aforesaid writ, which reports in the words following, to wit:

STATE OF MISSISSIPPI, *Franklin county:*

To all and singular whom it may concern:

Know ye, that we, the commissioners appointed in pursuance of an order issued out of the circuit court of Franklin county, directed to the

sheriff of said county, have this day set off by metes and bounds unto Eliza King, widow of Nathan King, all that certain tract of land lying and being on the Homochitto river, being the same on which said King dwelt next before his death, and known by the name of Calliham tract, containing seven hundred acres, and comprehending the dwelling-house and other necessary buildings and improvements. Also one other tract of land lying on said river, immediately above the Calliham tract, containing one hundred acres, more or less, known as the "Meredith tract," with its improvements, as computed as the one-third part, according to quantity and quality, of all the lands belonging to the estate of the said Nathan King, in the county aforesaid, and is hereby granted and set off to the said Eliza King as her dower of said estate; to have and to hold the same, with all the buildings, offices, and out-houses, and other improvements thereon, for and during her natural life, according to the strict intent and meaning of the laws of the State aforesaid concerning dower, in such case made and provided.

Nevertheless we, the commissioners aforesaid, by and with the consent of the parties, adjudge that the said Eliza King, for and in consideration of the entire use and benefit of a certain gin and mill, situated on the first tract of land described above, shall pay to the heirs of said Nathan King the sum of five hundred and fifty dollars.

Given under our hands and seals this 18th day of January, in the year of our Lord one thousand eight hundred and twenty-three.

PETER McINTYRE. [SEAL.]
AM. CARAWAY. [SEAL.]
DAVID D. GIBSON. [SEAL.]
WILLIAM B. SMITH. [SEAL.]

STATE OF MISSISSIPPI, *Franklin county.*

I hereby certify, that the commissioners, whose names are hereto assigned, were duly qualified to set off the dower of Eliza King, widow of Nathan King, deceased, January 18th, 1823.

C. C. SLOCUMB, *Sheriff.*

STATE OF MISSISSIPPI, *Franklin county.*

Pursuant to an order from the honorable circuit court, we, the undersigned commissioners, after being duly qualified, proceeded to lay off to Mrs. Eliza King her dower of the real and personal estate of the late Nathan King, deceased, viz:

Slaves	Captain	$800 00
"	Mill and infant Lewbreck	675 00
"	Sylvester	150 00
"	Grace	600 00
"	Maria and child Henry	700 00
"	Diamond	450 00
"	Luce	250 00
"	Jim	687 50
"	Silvia	500 00
"	Old Pen	250 00

Slave Harry		$700 00
" Juno		375 00
" Esther		300 00
" Patsey		100 00
" Cinthia		200 00
" Green		600 00
" Linda		500 00
" Clyer		400 00
" George		200 00
" Mach		150 00
" Amp		00 00
" Charlotte		00 00
Horses and mules.—Horse	Brown	57 50
"	Charley	40 00
Mule	Jolly	75 00
"	Jinney	50 00
2 yoke of oxen		145 00
1 wagon and chains		100 00
30 head of cattle $150; stocks of hogs $105		255 00
300 barrels corn *a* 6s		225 00
Kitchen furniture $15; Ludow's map $6		21 00
4 prs. fire dogs; 1 shovel and tongs		35 50
		$9,590 00
Brought forward		$9,590 00
Books, $10; 1 Bureau, $20		30 00
1 set of rabb'ts, $30; 23 chairs, $23		53 00
1 pair of large looking-glasses, $70		70 00
1 sett china ware, $10; 1 clock, $50		60 00
1 pair smoothing irons, $1; 1 small table, $3		4 00
1 bed and clothing, $30; 1 do. do., $25		55 00
1 bed and clothing, $27 50; 1 do. and bedstead, $40		67 50
1 bed, bedstead, and clothing, $20; 1 do., $20		40 00
1 old rabb't, $1; 1 common do., $2; 3 old trunks, $4		7 00
1 rifle gun, $35; 1 whip saw and cross cut saw, $10		45 00
11 hoes, $5; 3 briar hooks, $1 50; 5 ploughs and gears, $9		15 50
1 harrow, $3; axes, wedges, &c., $13		16 00
To part in mill and gin		550 00
		$10,602 00

We, the commissioners aforesaid, hereby certify, that we have allotted and set off to Eliza King, widow of Nathan King, deceased, all the above mentioned property, it being the dower or one-fourth part of all the personal estate of the said Nathan King, in Franklin county, that has come under our knowledge. January 18th, 1823.

PETER McINTYRE, [SEAL.]
AM. CARRAWAY, [SEAL.]
DAVID D. GIBSON, [SEAL.]
WILLIAM B. SMITH. [SEAL.]

Sworn to and subscribed before me, sheriff of said county aforesaid, the day above written.

C. C. SLOCUMB, *Sheriff.*

To which the defendant also excepted, because the report was made by four alone, when the writ required the allotment to be made by five.

And the plaintiff further offered in evidence, to support his action, a petition and a fiat for a writ of supersedeas, which was also objected to by the defendant, because the proceedings thereon was against the sheriff of Franklin county, who is Dempsey P. Cain and the plaintiff, and this suit was between Brown and James C. Cain, who was deputy sheriff.

2d. Because the said writ did not appear to be served by any officer whatever, but was only read by a traveller to a number of persons in the town of Meadville, among whom was the defendant.

3d. Because the supersedeas did not issue until after the day laid in the plaintiff's declaration, the trespass being laid with a continuendo; all of which objections were overruled by the court, and the evidence permitted to be read to the jury; to which opinion of the court the defendant, by his counsel, excepts, and prays that the exceptions may be signed, sealed, and enrolled, and made a part of the record. 6th October, 1829.

HARRY CAGE, [SEAL.]
Presiding judge.

STATE OF MISSISSIPPI, *Franklin county.*

JAMES BROWN
vs.
JAMES C. CAIN.

Franklin circuit court, October term, 1829.

Received of James C. Cain seven hundred and forty-nine dollars in full of the above judgment, this 7th October, 1829.

JAS. BROWN,
By JAS. A. WITHERSPOON,
Attorney in fact.

STATE OF MISSISSIPPI, *Franklin county, ss.*

I, John P. Stewart, clerk *clerk* of the circuit court of the said county, do hereby certify, that this and the eleven preceding pages are truly taken from the records thereof, and contain a full exemplication of the record and proceedings of the court in the suit therein stated, as fully and amply as the same remains before me.

In testimony whereof to this exemplification I hereunto subscribe my name and affix the seal of the said court, this tenth day of January, in the year of our Lord one thousand eight hundred and forty, and in the sixty-fourth year of the independence of the United States of America.

JNO. P. STEWART, [SEAL.]
Clerk.

State of Mississippi, Amite county.

J. T. Crawford, judge of the 11th judicial district of Mississippi, of which Franklin county is a part, do hereby certify, that John P. Stewart, who has signed the forgoing certificate, was, at the time of signing the same, clerk of the circuit court of said county, and the same is done in due form of law.

Given under my hand and seal, this 9th day of November, 1840.

J. T. CRAWFORD. [SEAL.]

Judge of 11th judicial district of Mississippi.

Certificate of governor.

By Alexander G. McNutt, governor of the State of Mississippi, to all who shall see these presents, greeting:

Be it known that J. T. Crawford, whose name is subscribed to the annexed certificate, was on the 9th day of November, A. D. 1840, judge of the eleventh judicial district, in the State of Mississippi, that his attestation to the annexed certificate is in due form of law, and made by the proper officer, and that full faith and credit are due to all his official acts.

In testimony whereof I have caused the great seal of the State to be hereunto affixed. Given under my hand at the city of Jackson, this 25th day of February, 1841. [SEAL.]

A. G. McNUTT.

By the governor:

THOMAS B. WOODWARD,
Secretary of State.

THE STATE OF MISSISSIPPI.

BARTLETT FORD et al., complainants,
vs.
JAMES BROWN et al., defendants.

Pleas before the honorable Edward Turner, chancellor of the State of Mississippi, at a supreme court of chancery, of the State of Mississippi, continued and held the 11th day of January, 1837.

Be it remembered, that heretofore, to wit, on the 28th day of October, 1826, came the complainants, Bartlett Ford, Robert Anderson and Amy, his wife, Richard Bine and Matilda, his wife, James C. Hawley and Susannah, his wife, and Adeliza Pickett, by their solicitors, and filed in the clerk's office of the supreme court of chancery of the State of Mississippi, for the western district, their bill of complaint against James Brown, James A. Witherspoon, and Michael Massey, John, Alfred, and Harriet King, defendants; which said bill is as follows, to wit:

To the honorable Joshua G. Clarke, chancellor of the State of Mississippi, in the superior court of chancery for the western district sitting:

Humbly complaining, show unto your honor your orators and oratrixes, Bartlett Ford, Robert Anderson and Amy, his wife, Richard Bien and Matilda, his wife, James C. Hawley and Susannah, his wife, and Adeliza Pickett, daughter of said Amy Anderson by her first husband, deceased, by her guardian, Robert Anderson—that sometime on or about the thirtieth day of June, A. D. eighteen hundred and twenty, Nathan King, of the county of Franklin, departed this life, having made his last will and testament, by which he lent to his wife, Eliza King, the following named property during her natural life, to wit: Captain and his wife Mariah, Cooper, (in Sicily island,) and his wife Phœbe, Harry and Hester and her seven children—names of the children not mentioned, as they are all well known—one other negro woman named Milly, Charlotte Green, and old Pen. Also all the stock belonging to the plantation the testator then resided on on the Homochitto: horses, cattle, and sheep, and hogs; his household and kitchen furniture; likewise the plantation and tract of land testator then lived on on Homochitto, including part of tract formerly Thomas Meredith's. To his daughter Amy he gave the following negroes: Ailsee, Caroline, John, Maria, Jerry, Harriett, Dave, Suezy, and Linda and her child John. Also he gave to his daughter Matilda the following negroes, viz: Sam and his wife, and four children, named Frank, Cresey, Monroe, and Charlotte, and Hannah, Bob, Polly, and Courtney. Also to Susannah the following negroes: Cooper, at Cole's creek, and his wife Rachel, Ben, at Cole's Creek, Seale, Gates, Mary, little Diamond, Peter, yellow Ben, and Arthur. The testator also provided in his said will that the whole of his estate should be kept together as it then stood until all his just debts were paid.

Your orators further represent, that by the said will the testator appointed your orator, Bartlett Ford, executor thereof, who had the same duly proved and recorded, and took upon himself the execution thereof, as by copy thereof, which is hereunto annexed, and prayed to be taken as a part hereof, will more fully and at large appear, marked exhibit A. Your orators further show that some short time after the death of said Nathan King, John Pickett, the first husband of your oratrix, Amy, died, leaving only one child, your oratrix, Adeliza, and that your oratrixes, Amy, Matilda, and Susannah, who intermarried with your orators, Robert, Richard, and James, respectively, were the only children and heirs at law of said Nathan King.

Your orators and oratrixes further show unto your honor, that some time after the death of said Nathan King, on or about the —— day of March, A. D. 1821, the said Eliza King, his widow, became dissatisfied with the provisions made for her by said will, and filed her petition to set aside said will as far as regarded her, and to have her dower assigned to her. Your orator expressly charges that no notice of this proceeding was ever given to the executor, as required by law, and they are therefore advised, and humbly insist, that the said proceedings were mere nullities, and cannot and ought not to affect your orators, or prejudice in any shape their rights. Your orators further represent that a decree or order of court was thereupon made, by which the fol-

[illegible]wing property assigned to the said Eliza, as her dower in said estate, as by a copy hereto annexed will more fully appear, marked Exh. B. Your orators further represent, that at the time of said testator's death there were considerable debts due and owing by the same to the amount of $25,000 and upwards, and that both the legacies to his children, and to his widow, *was* subject to the payment thereof.

Your orators further represent, that when the property as aforesaid came to be delivered to said Eliza it could not be equally divided, and the said Eliza, in order to make up the difference, gave her notes for $1,246 to Bartlett Ford, as guardian for your oratrixes, Matilda and Susannah. Your orators further represent, that soon after receiving said property the said Eliza intermarried with one James Brown, whom your orators pray may be made defendants hereto, with apt words to charge him. Your orators further shew, that said marriage took place some time on or about the month of May, A. D. 1824, and that within six weeks or two months after the said Eliza departed this life, without having paid or satisfied any part of the debts due by the estate, except about the sum of $1,000. At the time of her marriage and death there was a crop growing on the place, which the said defendant, Brown, cultivated and gathered, and for which he received the sum of $2,600, or thereabouts, for which he has never accounted. Your orators further shew, that the said Brown, having taken possession of the property assigned to his said wife as her dower, has continued to work and hold the same as if it were absolutely his, and has constantly refused to pay any portion of the debts due by the estate as aforesaid, although his said wife, before receiving the said property, had given a refunding bond to your orator, Bartlett Ford, which is hereto annexed, marked exh. C, and prayed to be taken as part hereof.

Your orators further shew unto your honor, that some time on or about the —— day of April, A. D. 1824, the heirs of John King, deceased, commenced suit against your orator, Bartlett Ford, as executor of Nathan King, deceased; and at the October term, 1824, of the circuit court of Franklin county, obtained judgment against [the] estate for the sum of $6,196 59 and costs. That execution on said judgment was issued several times, and sundry sums paid on account of the same by your orators, Bein, Hawley, and Anderson, viz: the sum of about $1,712 by Bein, and the sum of about $1,712 by Hawley, and $600 by Anderson, as will more fully appear by the receipts and vouchers hereto annexed, and prayed to be taken as a part hereof, marked exhibit D.

Your orators further shew unto your honor, that the said James Brown, in pursuance of his plan and determination of not paying any part of the debts due by the estate of said King, has employed as his agent, one James A. Witherspoon, to whom he has conveyed, or pretended to convey, said negroes and personal property received with his wife as aforesaid from the estate of Nathan King. That said Witherspoon, whom your orator prays may be made defendant hereto, with apt words to charge him, having due notice of the premises, has openly

and repeatedly declared his determination that said Brown should not pay any part of the debts due by said estate, and that he would make your orator Bien and Hawley pay them. Your orators further represent, that in persuance of said plan and determination the said Witherspoon, as agent for said Brown, went to the heirs of said John King, and after repeated solicitations, and great pursuasions, succeeded in purchasing or getting the control of said judgment, and since the last term of said circuit court has caused to be issued thereon an execution upon the forthcoming bond given by your orators Bartlett Ford, Robert Anderson, and Richard Bien, a copy of which is hereto annexed marked exhibit E.

Your orators further show that said execution was issued for the sum of $6,516 41, which the sheriff was in the first place commanded to make of the goods, chattels, lands, and tenements, which was of Nathan King, deceased, in the hands of Bartlett Ford, executor, and Rd. Bein, and R. Anderson. Your orators represent, that the said defendants, and particularly the said James A. Witherspoon, who is the clerk of said circuit court, having taken out execution, and handed the same to the sheriff in words above stated, directed him to make a levy on the property of your orators Bien and Hawley, but being told by the sheriff that he should be compelled to levy on the property of your orator Anderson, (with whom he was on terms of friendship, and whose property he did not wish touched, he asked the sheriff to hand him the execution for a moment, and upon the sheriff doing so, very coolly dashed out the name of Robert Anderson, so as to make the execution run thus, "we command you that of the goods, chattels, lands, and tenements, which were of Nathan King, deceased, in the hands of Bartlett Ford, executor, and Richard Bien, here the words and Robert Anderson were erased, late of your county &c., and then handed back the execution to the sheriff, and directed him to proceed and make the levy as he had before directed him.

But not satisfied with the alteration, and fearful that as the execution was against the estate of Nathan King in the hands of Ford and Bien, something might occur to prevent the accomplishment of his nefarious purposes, the said James A. Witherspoon again took back the execution, and struck out the words "which was" and the words "Nathan King, deceased, in the hands of," so as to make the execution run against the private property of Ford and Bien. Your orators further represent, that the said Richard Bien having made oath that he was but a security, the sheriff has gone on to levy on the private property of your orator, Bartlett Ford. All which will more fully appear by a copy of said execution, prayed to be taken as a part hereof, with the levy thereon hereto annexed, marked exhibit F. Your orators further show, that the sheriff had proceeded to advertise said sale, and that the same will take place on Monday, the 21st day of August, instant, unless stopped by the interference of this honorable court. Your orators further show unto your honor, that they have at all times been ready and willing on their part to pay and satisfy their just proportion of the debts due by the estate of Nathan King, deceased, and that they

...ve often, in a friendly manner, to induce said Brown to do so likewise; and your orators, Richard Bien and James C. Hawley, expressly charge that they have paid their full proportion of said debts due to the heirs of King, and more, as will appear by exhibit D. And moreover, they and your orator Anderson have paid off the whole of a judgment obtained by Dempsey P. Cain against said estate, amounting to about $6,000, and of which the said Brown has neglected and refused to pay any portion, besides a great many other debts which your orators have paid in whole or in part, and of which the said Brown ought to have paid his proportion, and of which your orators are desirous and ready to give an account as this honorable court shall direct. And your orator, Bartlett Ford, executor as aforesaid, expressly charges that the refusal of said Brown to pay his proportion of said debts, or to permit the property to be sold for that purpose, has caused him great difficulties and prevented him from paying off and settling the debts against the estate, of which there are a great many now subsisting. Your orator Ford further represents, that when the sheriff called to make said levy, he offered to show him property belonging to the estate of Nathan King sufficient to pay the amount due on the execution, which the sheriff declined, alleging that he was instructed by the said James A. Witherspoon to levy *to levy* on his private property. All of which actings and doings are contrary to equity and good conscience, and tend manifestly to the injury and oppression of your orator.

And your orators had well hoped that the said defendants would, as in duty they were bound to do, have come forward and paid their just proportion of said debts, and given the proper credits, and come to a just and fair settlement; but now, so it is, may it please your honor, the said James Brown and James A. Witherspoon, combining and confederating with Michael Moses, John Alfred, and Harriet King, heirs of said John King, deceased, and with divers others at present unknown to your orator, and all of whom your orators pray may be made defendants hereto, with apt words to charge them, how to injure and oppress your orators in the premises, sometimes pretend and give out in speeches, that the property received by said James Brown with his said wife, the widow of Nathan King, belonged to her absolutely, and was not subject to the payment of the debts of the estate; and at other times they pretend, that although the property was subject to the debts before the marriage of the widow to the defendant Brown, yet by virtue of the marriage the property became absolute in the said defendant Brown; all which pretences, actings, and doings, are contrary to equity and good conscience, and tend manifestly to the injury and oppression of your orator in the premises; and for as much as your orators are remediless in the premises, except by the interposition of this honorable court; to the end, therefore, that the said defendants may, upon their several corporate oaths, full, true, and perfect answers make to the several matters and things alleged, as fully and particularly as if the same were herein again set down, and they particularly interrogated thereto, and that the said defendants, heirs of John King, may set forth and discover

what interest they have in the said judgment; [illegible] said Brown may account to and with his co-distributor of the estate of Nathan King, and executor thereof, of and concerning the profits and hire of said negroes received with his wife, and that he give up the same, or pay his proportion due and owing by the estate, and that the said defendant may be compelled to give the proper credits on said execution:

May it please your honor, the premises considered, to grant unto your orators the State's writ of spa., to the said defendants to be directed, commanding them, &c., under a certain penalty, to appear and answer, &c.; also the State's writ of injunction and supersedeas to the said defendants, and to the sheriff to be directed, restraining and prohibiting them from other or further proceedings in enforcing the said judgment, or making the said sale, until the further order of this honorable court; and that, upon the final hearing of this cause, the said James Brown be decreed to give up the said property received with his said wife, and account for the profits thereof, or to pay his just proportions of the debts of Nathan King's estate, as far as the property received with his said wife will go, and that said property be made subject to the same, in the hands of the said defendant Witherspoon, and of all other persons whomsoever receiving the same with notice; and such other and further relief as to your honor may seem expedient and right; and as in duty bound your orators will pray, &c.

GRIFFITH & QUITMAN,
Complainant's Solicitors.

STATE OF MISSISSIPPI,
Franklin county.

Bartlett Ford, James C. Hawley, and Richard Bien, three of the complainants within named, being duly sworn, depose and say, that the matters and things within stated is of their own knowledge and true, and those derived from the information of others they believe to be true.

BARTLETT FORD,
J. C. HAWLEY,
R. BIEN.

Sworn to and subscribed before me, this 13th day of August, 1826.
JOHN MIDDLETON, *J. P.* [SEAL.]

FRANKLIN PLACE, *August* 21, 1826.

The application for injunction being made, the answers filed, and counsels being heard, it is considered that the complainants are not entitled to an injunction, except for the amount of the several payments made of the judgment at law, and this the parties present agree to adjust among themselves.

E. TURNER,
Judge 2d judicial district.

N. B. Exhibit A is not among the papers.

Exhibit B.

STATE OF MISSISSIPPI,
Franklin county.

Superior court, September term, 1821.

ELIZA KING, widow of Nathan King, deceased,
vs.
BARTLETT FORD, ex'r of Nathan King, dec'd.

Petition for dower in chancery.

Pleas before the honorable Joshua G. Clarke, one of the judges of the superior court of law and chancery, in and for the State of Mississippi, at a superior court holden at the court-house in and for the county aforesaid, in chancery sitting; whereupon, after legal information and deliberation had upon the premises, it is ordered by the court aforesaid, that a writ issue to the sheriff of Franklin county, commanding him to summon five discreet freeholders as commissioners, not connected either by consanguinity or affinity, who, upon oath, which oath the sheriff will administer, shall allot and set off by metes and bounds, to the said petitioner, one third part, according to the quantity and quality, of all the lands, tenements, and hereditaments in said county, belonging to the estate of the said Nathan King, to comprehend the dwelling-house in which the said Nathan King dwelt in before his death, together with the offices, out-houses, buildings, and other improvements thereunto belonging; and said commissioners shall also, at the same time, allot and set off to the petitioners one fourth part of the personal estate of which the said Nathan King was possessed, and to put her in possession of the one-third part of the said lands, tenements, and hereditaments, and of such fourth part of the personal estate; whereupon, the said Eliza King, widow as aforesaid, on the seventh day of January, in the year eighteen hundred and twenty-three, sued out of the court aforesaid the said writ according to the order aforesaid, which said writ, with the endorsements thereon, are in the words following, to wit:

STATE OF MISSISSIPPI,
Franklin county.

The State of Mississippi, to the sheriff of Franklin county, greeting:

You are hereby commanded to summon five discreet freeholders as commissioners, connected with Eliza King, or Bartlett Ford, executor of the estate of Nathaniel King, deceased, neither by consanguinity or affinity, who upon oath shall set off by metes and bounds, to the said petitioner, one-third part, according to the quantity and quality, of all the lands, tenements, and hereditaments in said county, belonging to the estate of the said Nathan King, to comprehend the dwelling-house in which the said Nathan King dwelt next before his death, together with the offices, out-houses, and buildings, and other improvements thereunto belonging; and the said commissioners, at the same time, allot and set off to the said petitioner, one-fourth part of the personal estate of which the said Nathan King was possessed, and to put her in pos-

session of the one-third part of the said lands, tenements, and hereditaments, and of such fourth part of the personal estate.

And have then there this writ, before the judges of the State aforesaid at a circuit court, holden at the court-house in and for the county of Franklin, on the second Monday in April next, and the manner in which you have executed the same.

Witness the honorable Lewis Winston, presiding judge of the second judicial district of the State aforesaid, at the court-house of said county, the second Monday in October, in the year eighteen hundred and twenty-two, and in the forty-seventh year of the independence of the United States of America.

Issued 7th January, 1823.

JAMES A. WITHERSPOON, *Clk.*

Afterwards, to wit, at a circuit court holden at the court-house, in and for Franklin county, on the second Monday in April, in the year eighteen hundred and twenty-four, comes the sheriff of said county and made a return of said writ, in the manner and form following, to wit: Pursuant to the within order, I proceeded to summon five discreet freeholders, as by said order commanded, viz., William B. Smith, David D. Gibson, Adam Caraway, Peter McIntyre, and Thomas Rowan, who met at the house of Eliza King, in Franklin county, on Thursday, the 16th day of January, 1823, except Thomas Rowan, who was indisposed; who, being duly qualified, after a session of three days, completed the business for which they were summoned, as will appear by the documents herewith filed.

C. C. SLOCUMB, *Sh'ff.*

Afterwards, to wit, at the same term of the court aforesaid, the sheriff of the county produced to the court here the proceedings had before the said commissioners, which are in the words following, to wit:

STATE OF MISSISSIPPI, *Franklin county.*

To all and singular whom it may concern.

Know ye, that we, the commissioners appointed in pursuance of an order issued out of the circuit court of Franklin county, directed to the sheriff of said county, have this day set off by metes and bounds unto Eliza King, widow of Nathan King, deceased, all that certain tract of land lying and being on the Homochitto river, being the same on which said King dwelt next before his death, and known by the name of the Callibam tract, containing seven hundred acres, and comprehending the dwelling-house and other necessary buildings and improvements; and also one other tract of land, lying on said river immediately above the said Calliham tract, containing one hundred acres, (more or less,) known by the name of the Meredith tract, with its improvements, which said tracts of lands, with the improvements, are computed to the one-third part, according to quality and quantity, of all the lands belonging to the estate of the said Nathan King in the county aforesaid, and are hereby granted and set off to the said Eliza King, as her dower of

the said estate: To have and to hold the same, with all the buildings, offices, out-houses, and other improvements thereon, for and during the term of her natural life, according to the strict intent and meaning of the law of the State aforesaid concerning dower, in such cases made and provided.

Nevertheless, we, the commissioners aforesaid, by and with the consent of the parties, adjudged that the said Eliza King, for and in consideration of the entire use and benefit of a certain gin and mill, situated on the first tract of land described above, shall pay to the heirs of said Nathan King the sum of five hundred and fifty dollars.

Given under our hands and seals, this eighteenth day of January, in the year of our Lord eighteen hundred and twenty-three.

PETER McINTYRE, [SEAL.]
DAVID D. GIBSON, [SEAL.]
ADAM CARAWAY, [SEAL.]
WILLIAM P. SMITH. [SEAL.]

STATE OF MISSISSIPPI, *Franklin county, ss.*

I certify that the commissioners, whose names are hereto assigned, were duly qualified to set off the dower of Eliza King, widow of Nathan King, deceased.

January 18th, 1823.

C. C. SLOCUMB.

STATE OF MISSISSIPPI, *Franklin county.*

Pursuant to an order from the honorable circuit court, we, the undersigned commissioners, after being duly qualified, proceeded to lay off to Mrs. Eliza King her dower of the real and personal estate of the late Nathan King, deceased, viz:

Slaves.

Captain	$800 00
Milly and infant Limbreck	675 00
Sylvester	150 00
Grace	600 00
Maria and child Henry	700 00
Diamond	450 00
Luce	250 00
Jim	687 50
Sylvia	500 00
Old Pen	250 00
Harry	700 00
Juno	375 00
Esther	300 00
Patsey	100 00
Cynthia	200 00
Green	600 00
Linda	500 00
Cloe	400 00

George		200 00
Mark		150 00
Amos		000 00
Charlotte		000 00

Horses and mules.

Horse Brown John	$57 50	
" Charley	40 00	
Mule Joltz	75 00	
" Jenny	50 00	
2 yoke of oxen		45 00
1 wagon and chains		100 00
30 head of cattle, $150; stock of hogs, $105		255 00
300 bushels of corn, at 6s.		225 00
Kitchen furniture, $15; Ludlow's map, $6		21 00
4 pairs fire-dogs and 1 shovel and tongs		35 50
Books, $10; one bureau, $20		30 00
One lot of tables, $30; 23 chairs, $23		53 00
One pair of large looking-glasses		70 00
Salt and Chaney ware, $10; one clock, $50		60 00
1 par. smoothing irons, $1; one small table, $3		4 00
One bed and clothing, $30; one ditto, $25		55 00
One bed and clothing, $27 50; one do. and bedstead, $40		67 50
One bedstead, bed, and clothing, $20; one do. do. do., $20		40 00
One old table, $1; one common do., $2; 3 trunks, $4		7 00
One rifle gun, $35; one whip saw and x-cut do., $10		45 00
11 hoes, $5; 3 briar hooks, $1 50; 5 ploughs and gears, $9		14 00
1 harrow, $3; axes, wedges, &c., $13		16 00
		$10,052 00
To part in gin and mill		550 00
		$10,602 00

We, the commissioners aforesaid, hereby certify that we have attended and set off to Eliza King, widow of Nathan King, deceased, all the above mentioned property, it being her dower or one-fourth part of all the personal estate of Nathan King in Franklin county, that has come under our knowledge.

January 18th, 1823.

PETER McINTYRE, [L. S.]
AM. CARAWAY, [L. S.]
DAVID D. GIBSON, [L. S.]
WILLIAM P. SMITH. [L. S.]

Sworn to and subscribed before me, the sheriff of the county aforesaid, the day above written.

C. C. SLOCUMB.

I certify that the within record is a true copy of the proceedings in the within cause, had in the superior court of chancery for Franklin

county, and State of Mississippi, at the April term, 1824, as taken from the original papers filed in the office of said court.

JAS. A. WITHERSPOON, *Clerk*.

Exhibit C.

STATE OF MISSISSIPPI, *Franklin county*.

Know all men by these presents, that we, Eliza King and , are held and firmly bound unto Bartlett Ford, (executor of Nathan King,) in the sum of fifty thousand dollars, good and lawful money of the United States; for which payment, well and truly to be made and done, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals, and dated this 16th day of January, 1823.

The condition of the above obligation is such, that the above bound Eliza King has this day received all her distributive share of the estate of Nathan King, (her deceased husband,) both real and personal, which has been allotted and set off to her as her dower, in obedience to an order from the superior court of the State and county aforesaid.

Now be it known, and it is hereby agreed to on the part of the said Eliza King and , that they will, at any time when required, pay unto the said Bartlett Ford, or his legal representatives, a due proportion of all debts and demands which may appear against the estate of Nathan King, deceased, (say one-fourth part,) and also the costs attendant on the recovery of the same; which, if done, then the above obligation to be void, otherwise to remain in full force and virtue.

ELIZA KING, [L. S.]
[L. S.]

Signed, sealed, and delivered, in the presence of—
BENJAMIN GRUBBS.

N. B. Exhibit D is not among the papers.

Exhibit E.

STATE OF MISSISSIPPI, *Franklin county*.

Franklin circuit court, to April term, 1825.

Know all men by these presents, that we, B. Ford, executor of Nathan , deceased, [and] R. Bien, of Franklin county, Mississippi, are held and firmly bound unto the heirs of John King, deceased, in the full and just sum of twelve thousand three hundred and fifty-three dollars $\frac{6}{100}$; the payment of which, well and truly to be made, we bind ourselves, and each of us, our heirs, administrators, executors, and assigns, jointly and severally, firmly by these presents.

Sealed with our seals, and dated this ninth day of February, 1825.

The condition of the above obligations are such, that whereas the heirs of John King, deceased, of said county and State, have lately sued out [of] the circuit court of Franklin county a writ of fieri facias against the goods, chattels, lands, and tenements of B. Ford, executor of Nathan estate, for the sum of six thousand one hundred and seventy-six dollars and $\frac{76}{100}$; which said writ of fieri facias was this day levied on certain negroes, to wit, Arthur, Coatney, Harriet, Cooper, Rachel, Turner, Hannah, Little Dime, [and] Mary, taken in execu-

tion as the property of the deceased, to satisfy the heirs of John King, deceased, of the judgment and costs, according to the statute in such case made and provided; which said property is suffered to remain in possession of the above B. Ford, executor as aforesaid, upon his executing his bond.

Now, if the above bound B. Ford, executor, shall deliver to D. P. Cain, sheriff of Franklin county, the above named property, on the third Monday in March next, by 12 o'clock noon of said day, to be disposed of according to law, to satisfy the above named writ and costs thereon, and, in that case, the above obligation to be null and void, otherwise to remain in full force and virtue.

B. FORD, ex'r of N. King, [L. S.]
R. BIEN, [L. S.]
R. ANDERSON. [L. S.]

Signed and sealed in presence of—
D. P. CAIN, *Sheriff*.

I certify that the above is a true copy of the original, as remains filed in my office.

Given under my hand and seal of office, this 13th June, 1826.

JAS. A. WITHERSPOON, *Clerk*.

Exhibit F.

STATE OF MISSISSIPPI, *Franklin county*.

The State of Mississippi to the sheriff of Franklin county, greeting:

We command you, as we have heretofore commanded, that of the goods and chattels, lands and tenements, of Bartlett Ford, executor, and Richard Bien, late of your county, you cause to be made the sum of six thousand one [hundred] and twenty-six and $\frac{25}{100}$ dollars, which the heirs of John King, deceased, lately in our circuit court have recovered against them for debt; also the sum of four hundred and ninety and $\frac{12}{100}$ dollars, which to the said heirs of John King, deceased, in the same court, were adjudged for their damages by reason of the detention of said debt, with interest on said sum at eight per centum per annum, from the 12th day of October, 1825, until paid; and the sum of nineteen and $\frac{37}{100}$ dollars for costs by him about his suit in that behalf expended, whereof the said Bartlett Ford, administrator as aforesaid, Richard Bein, and Robert Anderson [are] convicted, as appears to us of record, and that you have said moneys before the judges of the State aforesaid, at a circuit court to be holden at the court-house in and for the county of Franklin, on the second Monday in October next, to render to the said heirs for their debt, damage, and costs aforesaid, and have then there this writ.

Witness the honorable Edward Turner, presiding judge of the second judicial district of the State, at a circuit court holden at the court-house in and for said county, on the second Monday in [L. S.] April, in the year of our [Lord] eighteen hundred and twenty-six, and in the 50th year of the independence of the United States of America.

JAS. A. WITHERSPOON, *Clerk*.

Issued the 1st day of May, 1826.

Judgment on award, October term, 1824.

Debt	$6,126 59
Damages	490 12½
Clerk	7 62½
Execution	75
Jura.	2 00
Sheriff Cain	4 50
Atto. Magee	5 00

No security to be taken, of any kind, on this execution.

JAS. A. WITHERSPOON, *Clerk.*

This execution is entitled to a credit of six hundred dollars, as per sheriff.

JAS. A. WITHERSPOON, *Clerk.*

The above credit of six hundred dollars was received of Richard Bein, administrator of the estate of John Pickett, deceased, at April term, 1826.

D. P. CAIN, *Sheriff.*

Endorsed—25th May, 1826, D. P. Cain, sheriff. True copy, D. P. Cain, sheriff. Levied 25th July, 1826, on the following negroes, to wit, Green, Charlotte, Ann, Tom, Jacob, Little Jacob, Mariah, and Mary, taken as the property of B. Ford; advertised for 3d Monday in August.

I certify the foregoing to be a true copy of the original.

D. *B.* CAIN, *Sheriff.*

And on the same day, to wit, the 28th October, 1826, said complainants filed their amended bill, which is as follows:

The amended bill of Bartlett Ford, Robert Anderson and Amy, his wife, Richard Bein and Matilda, his wife, and Adeliza Pickett, daughter of Amy Anderson by her first husband, James C. Hawley and Susannah, his wife, deceased, by her guardian Robert Anderson.

Your orators, insisting upon all and singular the matters contained in their original bill, and averring that the same are, in all respects, true, further represent unto your honor, that the order or decree of court setting off dower to the widow of the said Nathan King, deceased, a record of which is annexed to the answers of the defendants to the said original bill, shows no notice or citation to the executor of said proceedings; and they are advised, and humbly insist, that the said decree or order to assign dower, and all proceedings under it, were absolutely null and void, and cannot affect the rights of your orators.

Your orators further represent, that the said Eliza King received considerably more than her portion of the estate, as appears by the notes above referred to in your orator's original bill, amounting to twelve hundred and fifty-six dollars, or thereabouts, copies of which are hereto annexed, marked exh. ——— and which your orators pray may be taken as a part hereof. Your orators further shew, that the said Bartlett Ford, executor as aforesaid, not being disposed to injure or sacrifice the estate of said Nathan King, and desirous particularly to accommo-

date, as far as possible, the widow (said Eliza King,) and hoping that the debts might well be paid out of crops, without selling either land or negroes, agreed to permit the several heirs and distributees to take possession of their respective shares, under the promise and engagement that each would contribute his or her proportion of the debts as they were presented. But your orators aver, that although the said defendant, Brown, was well aware, at and before the time of his marriage with the widow as aforesaid, that the estate of the said Nathan King was embarrassed, and that it was the understanding and agreement between all the heirs and distributees, on receiving their portion, that each was to discharge a *tactable* proportion of said debts. And the said Brown, both before and after his marriage, repeatedly declared that he would pay his proportion; and some time after his marriage actually surrendered a portion of the property on an execution against your orator, Bartlett Ford, as executor of said Nathan King. Your orators further allege, that since that time the said Brown has made repeated promises of a like nature, to which he has always declined performing; and at last made the arrangement with the said James A. Witherspoon, as stated in the original bill, for the purpose of defrauding your orators altogether. And your orators allege that, for that purpose, they have understood, and verily believe, that beside the power of attorney given to said James A. Witherspoon, as stated in his answer, there is some other bill of sale or conveyance, trust deed, or secret understanding between them, which your orators pray the said defendants may be compelled to set forth and produce.

And your orators further represent, that they have understood, and verily believe, that the said James Brown is about to depart from this State to places beyond the limits of this State, and out of the jurisdiction of this honorable court, and to carry with him, if possible, the said negroes and personal property received from the estate of Nathan King aforesaid. And your orators further represent, that the said James Brown having no family or landed estate known to your orators in this county, they are apprehensive that if he should depart from the State, as he has declared his intention to do, they will altogether lose their remedy against him, and their interests be very much jeopardized. And your orators had well hoped that the said defendants and their confederates would have come forward, and made an amicable and equitable settlement and arrangement of the matters above complained; but now, so it is, may it please your honor, the said defendants, combining and confederating, &c., threaten to make your orators pay all the debts due by the said estate, and to exempt the property of the said Brown therefrom; and the said Brown is about to leave the State, and carry said property with him, if he can; and which actings and doings are contrary to equity and good conscience, &c.

To the end, therefore, &c., may it please your honor, the premises considered, to grant unto your orators the State's writ of subpœna, to the said defendants to be directed, commanding them, &c., under a certain penalty, &c., to answer, &c., and that they may be compelled to answer on oath the several matters and things above set forth. And also

the State's writ of ne exeat, to the said James Brown to be directed, commanding and strictly enjoining him not to leave this State, or to remove the said negroes and other property in the original bill mentioned beyond the limits thereof, until the several matters and things above alleged shall have been heard and finally determined in this honorable court. And your orators further pray, that on the final hearing of this cause they may have, in addition to that prayed for in the original bill, such other and further relief as to your honor may seem expedient and proper; and, as in duty bound, your orators will ever pray, &c.

GRIFFITH & QUITMAN, *Sols. complainants.*

STATE OF MISSISSIPPI, *Franklin county.*

Personally appeared before the undersigned, judge of probate in and for the county aforesaid, Bartlett Ford, executor, &c., and Richard Bein, who, on oath, state, the facts contained in the foregoing bill of complaint are true as shewn forth, to the best of their knowledge.

Sworn to before me,

October 29th, 1826. JOHN CAMERON, *J. P.*

Let a subpœna and ne exeat issue according to the prayer of the foregoing bill. Bail may be taken in the penal sum of six thousand dollars.

E. TURNER, *Judge 2d judicial district.*

To the clerk of the superior court of chancery, western district.

October 9th, 1826.

SUPERIOR COURT OF CHANCERY,

Western district, to wit:

To Michael King, for himself and as guardian of Alfred King, Harriet S. King, Moses King, and John King, heirs at law of John King, deceased, and James A. Witherspoon, greeting:

For certain causes offered before us in our superior court of chancery for the western district, we command and strictly enjoin you, that laying all other matters aside, and notwithstanding any excuse, you personally be and appear before the chancellor of the State aforesaid, at a superior court of chancery as aforesaid, sitting at the court-house in the county of Adams, on the second Monday in January next, to answer an amended bill preferred against you and one James Brown, by Bartlett Ford, executor of Nathan King, deceased, Robert Anderson and Amy, his wife, Richard Bein and Matilda, his wife, James C. Hawley and Susannah, his wife, and Adeliza Pickett, by her guardian Robert Anderson, in our said court; and further to do and receive what the said court shall have considered in this behalf; and this you shall in no wise omit, under the penalty of one hundred dollars.

Witness the honorable Joshua G. Clarke, chancellor of the State aforesaid, who hath caused the seal of the court to be hereunto annexed, at the court-house of Adams county, the second [L. S.] Monday in July, in the year of our Lord one thousand eight hundred and twenty-six, and in the 51st year of the independence of the United States of America.

JAS. A. GIRAULT, *Clerk.*

Issued the 3d day of November, 1826.

To the sheriff of Franklin county, to execute and return.

JAS. A. GIRAULT, *Clerk.*

Edorsed.—Received November 17, 1827. D. H. McIntyre, sh'ff. Served Jas. A. Witherspoon with a copy of the within, Nov. 20th, 1826. Served Michael King with copy the 30th November, 1826. Served Moses and John King with copies, Nov. the 31st, 1826.

D. H. McINTYRE, *Sheriff.*

SUPERIOR COURT OF CHANCERY,

Western district, to wit:

The State of Mississippi, to James Brown, greeting:

For certain causes offered before us, in our superior court of chancery, for the western district, we command and strictly enjoin you that, laying all other matters aside, and notwithstanding any excuse, you personally be and appear before the chancellor of the State aforesaid, at a superior court of chancery, as aforesaid, sitting at the court-house, in the county of Adams, on the second Monday in January next, to answer to an original and amended bill preferred against you and others by Bartlett Ford, executor of Nathan King, deceased, Robert Anderson and Amy, his wife, Richard Bien and Matilda, his wife, James C. Hawley and Susannah, his wife, and Adeliza Pickett, by her guardian, Robert Anderson, in our said court, and further to do and receive what the said court shall have considered in this behalf. And this you shall in no wise omit, under the penalty of one hundred dollars.

Witness the honorable Joshua G. Clarke, chancellor of the State aforesaid, who hath caused the seal of the court to be here-
[L. S.] unto annexed, at the court-house of Adams county, the second Monday in July, in the year of our Lord one thousand eight hundred and twenty-six, and in the 51st year of the sovereignty and independence of the United States of America.

JAS. A. GIRAULT, *Clerk.*

Issued the 3d day of November, 1826.

To the sheriff of Franklin county, to execute and return.

JAS. A. GIRAULT, *Clerk.*

Endorsed.—Received November the 17th, 1826. D. H. McIntyre, sh'ff. Served James Brown with a copy, Nov. 20th, 1826.

D. H. McINTYRE, *Sheriff.*

THE STATE OF MISSISSIPPI, *county.*

Superior court of chancery, western district, to the sheriff of Franklin county, greeting:

Whereas it is represented to us in our superior court of chancery, for the western district, on the part of Bartlett Ford, Robert Anderson and Amy, his wife, Richard Bein and Matilda, his wife, James C. Hawley and Susannah, his wife, and Adeliza Pickett, daughter of the said Amy Anderson by her first husband, deceased, by her guardian, Robert Anderson, complainants, and James Brown and James A. Witherspoon, of the county of Franklin, defendants, among other

things, that the said James Brown and James A. Witherspoon unlawfully and fraudulently hold possession of the following named negro slaves, and their increase, which were set off to Eliza Brown, now deceased, (formerly Eliza King,) as part of her dower of the personal estate of Nathan King, deceased, to wit: Captain, Milly and child Limbreck, Sylvester, Grace, Maria and child Henry, Diamond, Leuce, Jim, Sylvia, Old Penn, Harry, Juno, Esther, Patsey, Cynthia, Green, Linda, Clyoe, George, Mack, Amos, and Charlotte; and that the said James Brown will remove the said slaves and their increase in his and the said James A. Witherspoon's possession beyond the limits of the State aforesaid to parts unknown, which would tend to the great prejudice and damage of the said complainants. Therefore, in order to prevent this injustice, we do hereby command you that you do, without delay, cause the said James Brown personally to come before you, and give sufficient bail or security, in the penal sum of six thousand dollars, that he, the said James Brown, will not carry, or cause to be carried, out of the State aforesaid the said negro slaves, Captain, Milly and child, Limbreck, Sylvester, Grace, Maria and child Henry, Diamond, Leuce, Jim, Sylvia, Old Penn, Harry, Juno, Esther, Patsey, Cynthia, Green, Linda, Clyoe, George, Mack, Amos, and Charlotte, with their increase, as may be in his possession, or under his control, or attempt to carry or permit the same to go or depart the State aforesaid, without leave of our said court first had and obtained, and to have the said slaves forthcoming, to abide the further order of said court in the premises. And in case the said James Brown shall fail or refuse to give such bail or security, then you are to commit him to the prison of our said county of Franklin, there to be kept in safe custody until he shall do it of his own accord, or be liberated therefrom by a due course of law. And when you shall have taken such security, you are forthwith to make and return a certificate thereof to our said superior court of chancery, for the western district, plainly and distinctly under your hand and seal, together with this writ.

Witness the honorable Joshua G. Clarke, chancellor of the State aforesaid, who hath caused the seal of the court to be hereunto [L. S.] affixed, at the court-house of Adams county, the second Monday in June, in the year of our Lord one thousand eight hundred and twenty-six, and in the 51st year of the sovereignty and independence of the United States of America.

Issued the 9th day of October, A. D. 1826.

JAS. A GIRAULT, *Clerk.*

The sheriff of Franklin county will hold the within named James Brown to bail, in the penal sum of six thousand dollars, conditioned according to law and the fiat of the judge herein.

JAMES A. GIRAULT, *Clerk.*

Oct. 9th, 1826.

Served October the 10th, 1826, and bound him to bail, with Gray Briggs and James A. Witherspoon, security.

D. H. McINTYRE, *Sheriff.*

Know all men by these presents that we, James Brown, Gray Briggs, and James A. Witherspoon, are held and firmly bound unto Duncan H. McIntyre, sheriff of Franklin county, and successors in office, and his or their assigns, in the penal sum of six thousand dollars, lawful money of the United States; to which payment, well and truly to be made to the said D. H. McIntyre, and his successors and assigns, we do bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals, and dated this 10th day of October, A. D. one eighteen hundred and twenty-six.

The condition of the above obligation is such, that if the said James Brown, his executors, administrators, or assigns, do not carry, or cause to be carried, out of the State of Mississippi the negro slaves Captain, Milly and child Limbreck, Sylvester, Grace, Maria and child Henry, Diamond, Luce, Jim, Sylvia, Old Penn, Harry, Juno, Esther, Patsey, Cynthia, Green, Linda, Clyoe, George, Mack, Amos, and Charlotte, with such of their increase as may be in his possession or under his control, or attempt to carry, or permit the same to go or depart the State aforesaid, without leave of the court of chancery first had and obtained; and if the said James Brown shall further have the said slaves forthcoming to answer or abide the further order of said court in a suit therein pending, wherein Bartlett Ford and als. are defendants, then the above obligation to be void; otherwise to be and remain in full force and virtue.

JAMES BROWN, [SEAL.]
G. BRIGGS, [SEAL.]
JAS. A. WITHERSPOON. [SEAL.]

Signed, sealed, and acknowledged, in the presence of D. H. McIntyre, sheriff.

October the 10th, 1826.

I, D. H. McIntyre, sheriff of Franklin county, do hereby assign the above obligation and condition to Bartlett Ford, Robert Anderson and Amy, his wife, Richard Bein and Matilda, his wife, James C. Hawley and Susannah, his wife, and Adeliza Pickett, daughter of the said Amy Anderson by her first husband, their heirs, executors, and administrators, to be sued for according to the statute in such case made and provided.

In witness whereof I have hereunto set my hand and seal, this 10th day of October, 1826.

D. H. McINTYRE, *Sheriff*. [SEAL.]

And on the same day, to wit, the 28th of October, 1826, came the defendant, J. A. Witherspoon, and filed his answer, which is as follows:

Answer of Jas. A. Witherspoon.

To the honorable Joshua G. Clarke, chancellor of the State of Mississippi, in the superior court of chancery for the western district, in chancery sitting.

The answer of James A. Witherspoon to a bill in chancery, exhibited in said court by Bartlett Ford and others against James Brown, himself, and others.

This respondent, now and at [all] times hereafter, saving and reserving to himself the benefit of all just, legal, and equitable exceptions to the many errors, mistakes, and misstatements contained and set forth in the said complainants' bill, for answer to [so] much thereof as he is advised is material for him to answer, answereth and saith:

That, as to so much of the bill of complainants as relates to the last will and testament of Nathan King, deceased, he deems it unnecessary for him either to admit or deny the same, inasmuch as it is made a part of the bill, and will no doubt be produced by complainants; but its application to and bearing upon the present controversy, this respondent, on behalf of himself and as agent for his co-defendant, Brown, questions and denies.

This respondent is ready to admit that John Pickett, the first husband of complainant Amy, died leaving only one child, complainant Adeliza, and also the respective marriages between complainants Robert and Amy, Richard and Matilda, and James C. and Susannah; the said Amy, Matilda, and Susannah being the children of said Nathan King, deceased.

This respondent, for himself and as agent for said Brown, admits that said Eliza Brown, deceased, formerly the widow of said Nathan, did petition the honorable superior court of Franklin county, on the chancery side thereof, for an assignment and allotment of her dower in the estate of said Nathan, and obtained a decree and order for that purpose in 1821; but for more certainty a copy of the record thereof is referred to, marked A, and made a part of this answer. But this respondent, for himself and on behalf of said James Brown, denies that the same was illegally or irregularly obtained, and states that the same remains not in the least reversed, amended, or set aside; on which decree, for himself and on behalf of said Brown, he relies as conclusive between the said complainants and said Brown, and all persons claiming property or effects, either under the said Eliza, deceased, or said Brown, as to all matters and subjects embraced by said decree, and pleads the same in bar of the relief sought by complainants touching the subject-matters thereof.

This respondent further answers and says, that he does not know what amount of debts were due and owing from the said Nathan King at the time of his death, and therefore cannot admit the amount stated by complainants in their bill, as he denies that the said B. Ford, as executor, has made a settlement of his accounts, as executor, with the probate court of Franklin county, and thereby shew the situation of said estate; although, as the respondent expressly charges, that there were debts due the said Nathan King at the time of his death to a large amount, and also personal estate, which came to the hands of said B. Ford as executor, as will more fully appear by reference to the inventories returned; copies of which, marked B, are referred to and made a part of this answer.

And this respondent, for himself and on behalf of his co-defendant Brown, expressly charges, that the executor received the crops and profits of the estate of said Nathan King, deceased, for several years, amounting to large sums, and forming assets in his hands for the payment of debts, until the debts against said estate should be extinguished, and the surplus, if any, forming a sum for distribution among the legatees and distributees, and for which the said executor has not as yet accounted. This respondent further charges, that he is informed, and believes, that the profits of the estate of said Eliza, deceased, or a great portion thereof, both before and after the assignment of her dower in said estate, was applied to the discharge of debts against said Nathan's estate, or was received by said executor for that purpose if not paid by her. So that this respondent, for himself and on behalf of said Brown, expressly charges, that he paid as aforesaid her full and entire proportion of the debts against said estate, as he believes, as this respondent will show by the record of the decree marked A; that although said decree was pronounced in 1821, that the same was not extended until January, 1823; during which time said executor received the profits of the whole estate of said N. King, deceased, and also the proceeds of the crop of cotton then unsold, which will more fully appear by reference to a receipt given by said executor to said Eliza, deceased, marked C, and made a part of this answer.

But this respondent, for himself and on behalf of his co-defendant Brown, insists that if the said Eliza in her lifetime was, or the said Brown since her death is, bound to pay any further sum or sums towards the discharge of debts against said estate of said Nathan, deceased, that such liability can only be enforced at law, and not in chancery, but which is respectfully submitted to your honor; and that, at least, such liability cannot be enforced at the instance of said executor until he shall make a final settlement, and shew a deficit of assets, and the amount thereof, and the amount and interest of such liability, if any such liability exists, and which is denied; but being, as this respondent humbly conceives, more properly questions of law, are respectfully submitted to your honor.

This respondent further charges, that there were debts due by bonds, notes, and accounts, to the said Nathan at the time of his death, amounting to upwards of five thousand dollars, as will appear by said exhibit B; of which amount no portion thereof was given or assigned to said Eliza for her dower, but left in the hands of said executor as assets, as will appear by the exhibit A; and that, also, at the time of the death of said Nathan, he had on hand moneys to a large amount, but the precise amount is unknown to this respondent, and which he is informed and believes came to the knowledge and possession of said executor, which is not in said inventories, thus forming in his hands assets; to which statements this respondent, for himself and said Brown, calls upon said executor to answer, and if not admitted by him he begs leave to be permitted to prove the same, during the progress of this suit.

This respondent, for himself and in behalf of said Brown, saith he denies that said Brown had been unwilling to pay any portion of the debts against said estate of said Nathan King, deceased, but states that,

In the month of April, 1825, said Brown requested this respondent to state to said complainants, to wit, B. Ford, Robt., Richard, and James, that if the said B. Ford would come to a settlement with the probate court, he would pay any portion of the debts of said estate which would come to his part; and this respondent, in pursuance of said request, and conceiving that he was performing a friendly office, did make said proposition to said complainants, Robert and Richard, but that said B. Ford did not make said settlement; and afterwards, instead of said B. Ford, executor as aforesaid, coming to said settlement, as this respondent verily believes, combining with complainant, James C., and others to this respondent unknown, for the purpose of injuring, oppressing, and receiving, his co-defendant Brown applied to a certain Ed. Turner, late a counsellor and attorney at law, who was the attorney for the plaintiff in a certain suit lately depending in the circuit court of Franklin, in which John Vanderhall was plaintiff and said complainant, B. Ford, as executor aforesaid, was defendant; and artfully and fraudulently concealed from said Ed. Turner the fact that said judgment had been satisfied for an order to the clerk to issue an execution on said judgment, and thereby procured an execution to be issued, and caused the same to be levied on the property of said Brown, to wit, on twenty negroes, and caused the same to be sold on the first Monday in October, 1825, in one lot, for the trivial sum of five thousand dollars; although said execution was against said B. Ford, as executor aforesaid, and not against said Brown, and although the partial execution of said writ of fieri facias was superseded previous to said sale, yet said B. Ford, executor as aforesaid, and others, fraudulently persisted in causing said fieri facias to be executed in the way and manner before set forth; in consequence of such unfair and fraudulent conduct on the part of said complainant, Ford, and others, this respondent, as the agent of said Brown, and also the said Brown, has been put to great trouble and expense in regaining by legal means the possession of said slaves; and in consequence of which, this respondent, as the agent of his co-defendant, Brown, is determined never to pay, or suffer said Brown to pay, any more of the debts of said N. King, deceased, unless compelled by law thereto. This respondent by no means admits, but denies, that he, said Brown, is bound to pay any more of said debts.

This respondent, therefore, calls upon said B. Ford, as executor aforesaid, (if, in the opinion of your honor, it is a matter cognizable in this honorable court,) to account for and shew how much he received of the profits of said estate of said Nathan King, deceased, before the assignment and allotment of dower to said Eliza; also the amount of the sales of the cotton unsold on the 16th January, 1823; and also the amount of money which was in the hands of said Nathan at the time of his death, and which came to the knowledge and possession of said executor; and that the said several amounts may be considered and recorded as assets in his hands for the payment of and discharge of the debts against said estate, before the said Brown shall be required, either at law or in equity, to pay any thing towards the discharge of debts against said estate.

This respondent admits the marriage between the said Eliza and the

said Brown, but cannot state the date thereof; he also admits the death of said Eliza, but cannot state the date of her death. He admits that Brown took possession of the property belonging to said Eliza, and in her possession at the time of her marriage. He admits that his co-defendant, the heirs of John King, deceased, obtained a judgment against said B. Ford, as executor of said Nathan, deceased, in the circuit court of Franklin, and also that several executions have issued thereon, and that said Ford executed a forthcoming bond, but for more certainty he refers to a copy of the record of the judgment marked D, and also the copies of said executions and the endorsements and returns thereon, and also to a copy of the forthcoming bond, and makes them a part of this answer, marked E. He further answers and says that he does not know what credits ought to be given on said judgment; he is informed that some credits ought to be given, and which he is willing shall be given, so far as *their* respondent is concerned.

He answers further and says, that he has no interest in said judgment, except in May, 1826, he was employed by the plaintiff in said judgment to take the management and control thereof, and have it collected for them, for which they agreed to give him five per cent as a compensation for his trouble; and, for the purpose of enabling him to effect that object, they did give him a transfer of said judgment, and at the same time he gave them his obligation to pay over to them the money when collected, retaining five per cent. thereof, as above stated, which he conceives formed one entire contract, constituting him their agent for the purpose aforesaid; at least if it shall bear any other construction, it will bear a different one from that which was intended by him at the time.

And this respondent, further answering, denies that, as the agent of his co-defendant Brown, he ever purchased said judgment, or that said Brown had any thing to do in his becoming the agent of said plaintiff, the said N. King, &c., or that said Brown has any interest in said judgment, so far as this respondent knows or believes.

This respondent admits that he did make the erasures and alterations on the face of said execution, now in the hands of the sheriff, set forth in the complainants' bill; that having, as clerk of the Franklin circuit court, issued said execution erroneously, he did believe it to be right and proper, and his duty as clerk, to make the alterations, so as to make it correspond with and pursue said forthcoming bond, according to its tenor and legal effect. He states that the name of Robert Anderson is not in the body of the bond, and is written with different ink, which convinced this respondent that it was written at a different time from that in which the bond was executed; but whether said execution is in pursuance of said bond or not, as it now stands and reads, is, as this deponent conceives, a question of law which is therefore submitted to your honor. He would state that he conceives that if it is not a legal and valid execution as it now stands, that it is only remediable at law and not in chancery, but which is submitted to your honor. He admits that he did direct the sheriff to levy it upon the individual property of said defendants therein named, which direction was, as he con-

ceives, no more than a repetition of the command contained on the face thereof; he admits the levy thereof by the sheriff.

This respondent admits that he is the agent and attorney in fact for his co-defendant James Brown, for special and particular purposes, which purposes will more fully appear by a reference to a copy of the power of attorney by which, and by which alone, he was constituted his agent, marked F, and made a part of this answer; and he also admits that he has acquired an interest in a part of the property acquired by said Brown by his marriage with said Eliza, deceased, the extent of which interest will more fully appear by a reference to said letter of attorney, bearing date the 3d day of October, 1825, above referred to.

This respondent having, as he is advised, answered all the allegations in said complainant's bill, which it is material for him to answer, begs leave, if in the further progress of this suit it may be necessary or proper for him to make a further answer, that he may be permitted to do so.

This respondent calls upon the said complainants to prove all the allegations of their bill not in this answer expressly admitted, traversed, or denied. He pleads the judgment at law and forthcoming bond in bar of the relief sought by complainants, and pray that the prayer of complainants for an injunction and supersedeas may not be granted, and, if granted, that the same may be dissolved and discharged, and that the said plaintiff in execution may have the benefit of their judgment at law, bond and execution, and this respondent may be hence dismissed with his costs, &c.; and as in duty bound, &c.

R. W. WEBBER,
Solicitor for defendants.

STATE OF MISSISSIPPI, *Franklin county, sct.*

This day personally appeared before the undersigned, a justice of the peace, in and for the county of Franklin, James A. Witherspoon, and made oath that the facts stated in the foregoing answers are true, so far as they [are] from his knowledge, and so far as they come from the information of others he believes them to be true.

Given under my hand and seal this 18th day of August, 1826.

WM. BROLZ, *J. P.* [SEAL.]

To the honorable judge of the second judicial district of the State of Mississippi, sitting in the superior court for the county of Franklin, the petition of Eliza King, widow of Nathan King, who resided in said county at the time of his death, respectfully shews:

That at the last March term of this court, not being satisfied with the provisions made by the last will and testament of her late husband, she declared her dissent thereto in the time and manner prescribed by law.

The petitioner states that, besides valuable lands situated in the State of Louisiana, and in other counties in this State, her said husband died seized and possessed of the following lands, tenements, and hereditaments, lying and being in the county of Franklin aforesaid, to wit, six hundred and eighty-five acres of land on the Homochitto; also one

other tract of six hundred and seventeen acres of land on said river; and a third tract containing ——— acres, purchased by her said husband of one John Caston.

The petitioner further states, that her said husband died possessed of a large and valuable personal estate, consisting of many valuable slaves, horses, cattle, money, debts, and other things, which will best appear from the copy of the inventory and appraisement, filed in the office of the clerk of the orphan's court of said county. The petitioner further states, that her said husband, at the time of his death, possessed many valuable slaves, and farming implements, and stock in the State of Louisiana, which will be made appear by reference to a copy of the inventory, taken according to the laws of the said State of Louisiana. The petitioner further states, that her said husband left three children, all by this petitioner, under twenty-one years of age; that one of them, Amy, is married, the others still residing with their mother. This petitioner is advised, that having dissented from the provisions made for her by said last will and testament, she became entitled to her dower of one-third of all the said lands, tenements, and hereditaments of her said husband, situated in this State, to comprehend the dwelling-house in which her said husband dwelt next before his death, together with the offices, out-houses, buildings, and other improvements thereunto belonging, as no injustice will be done to the children by such comprehension; but, on the contrary, it is necessary for the two who are young, unmarried, and likely to continue for some time in the care and protection of this petitioner. This petitioner further states, that she is advised that she is entitled to the part of a child, being one-fourth part of all the personal estate of said husband wheresoever situated, to be and inure to her and to her heirs and assigns forever.

The petitioner therefore prays that a writ may issue, commanding the sheriff of said county of Franklin to summon five discreet freeholders, as commissioners, connected with the parties concerned herein neither by consanguinity nor affinity, and entirely disinterested, who may on oath allot and set off, by metes and bounds, one-third part, according to quantity and quality, of all the said lands, tenements, and hereditaments, situated in the said county of Franklin, and who may put this petitioner in possession of the same, and who may at the same time allot and set off this petitioner's portion or fourth part of all her said husband's personal estate, wheresoever situated, to be and inure to her heirs and assigns forever. And she will ever pray, &c.

ELIZA KING,
By her attorneys, TURNER & METCALF.

Petition for dower.

STATE OF MISSISSIPPI, *Franklin county.*

Superior court, September term, 1821.

ELIZA KING, widow of Nathan King, deceased,
vs.
BARTLETT FORD, executor of Nathan King, deceased.

Petition for dower, in chancery.

Pleas before the honorable Joshua G. Clarke, one of the judges of the superior court of law and chancery in and for the State of Mississippi, at a superior court holden at the court-house in and for the county aforesaid, in chancery sitting. Whereupon, after legal information and deliberation had upon the premises, it is ordered by the court aforesaid, that a writ issue to the sheriff of Franklin county, commanding him to summon five discreet freeholders as commissioners, not connected with the parties either by consanguinity or affinity, who upon oath, which oath the sheriff will administer, shall allot and set off, by metes and bounds, to the said petitioner, one-third part, according to the quantity and quality of all the lands, tenements, and hereditaments, in said county, belonging to the estate of said Nathan King, to comprehend the dwelling-house in which said Nathan King dwelt next before his death, together with the offices, out-houses, buildings, and other improvements thereunto belonging; and said commissioners shall also, at the same time, allot and set off to the petitioner one fourth part of the personal estate of which the said Nathan King was possessed, and to put her in possession of the one-third part of the said lands, tenements, and hereditaments, and of such fourth part of the personal estate. Whereupon, the said Eliza King, widow as aforesaid, on the seventh day of January, in the year eighteen hundred and twenty-three, sued out [of] the court aforesaid, the said writ, according to the *evan* aforesaid, which said writ, with the endorsement thereon, are in the words following, to wit:

State of Mississippi, *Franklin county*.

The State of Mississippi, to the Sheriff of Franklin county, greeting:

You are hereby commanded to summon five discreet free-holders as commissioners, connected with Eliza King, or Bartlett Ford, executor of the estate of Nathan King, deceased, neither by consanguinity or affinity, who upon oath shall set off, by metes and bounds, to the said petitioner, one-third part, according to the quantity and quality of all the lands, tenements, and hereditaments in said county, belonging to the estate of the said Nathan King, to comprehend the dwelling-house in which the said Nathan King dwelt, next before his death, together with the offices, out-houses, and buildings, and other improvements thereunto belonging; and said commissioners at the same time allot and set off to the petitioner one-fourth part of the personal estate of which the said Nathan King was possessed, and to put her in possession of the one-third part of the said lands, tenements, and hereditaments, and of such fourth part of the personal estate. And have then there this writ, before the judges of the State aforesaid, at a circuit court holden at the court-house, in and for the county of Franklin, on the second Monday in April next, and the manner in which you have executed the same.

Witness the honorable Lewis Winston, presiding judge of the second judicial district of the State aforesaid, at the court-house of said county, the second Monday in October, in the year eighteen hundred and twen-

ty-two, and in the forty-seventh year of the independence of the United States of America.

Issued 7th January, 1823.

JAS. A. WITHERSPOON, *Clerk.*

And afterwards, to wit, at a circuit court holden at the court-house in and for the county of Franklin, on the second Monday in April, in the year eighteen hundred and twenty-four, comes the sheriff of said county, and made a return of said writ, in manner and form following, to wit:

Pursuant to the within order, I proceeded to summon five discreet freeholders, as by said order commanded, viz., William B. Smith, David D. Gibson, Adam Carraway, Peter H. McIntyre, and Thomas Rowan, who met at the house of Eliza King, in Franklin county, on Tuesday, the 16th day of January, 1823, (except Thomas Rowan, who was indisposed,) who being duly qualified, after a session of three days, completed the business for which they were summoned, as will appear by the documents herewith filed, signed by said commissioners.

C. C. SLOCUMB, *Sheriff.*

Afterwards, to wit, at the same term of the court aforesaid, the sheriff of said county produced to the court here the proceedings had before the said commissioners, which are in the words following, to wit:

STATE OF MISSISSIPPI, *Franklin county.*

To all and singular whom it may concern.

Know ye, that we, the commissioners, appointed in pursuance of an order issued out of the circuit court of Franklin county, directed to the sheriff of said county, have this day set off by metes and bounds unto Eliza King, widow of Nathan King, deceased, all that certain tract of land lying and being on the Homochitto river, being the same on which said King dwelt next before his death, and known by the name of the Callihan tract, containing seven hundred acres, and comprehending the dwelling-house and other necessary buildings and improvements; and also one other tract of land lying on said river, immediately above the Callihan tract, containing one hundred acres, (more or less,) known by the name of the Meredith tract, with its improvements, which said tract[s] of land with their improvements are computed at the one-third part, according to quality and quantity, of all the lands belonging to the estate of the said Nathan King in the county aforesaid, and are hereby granted and set off to the said Eliza King as her dower of said estate.

To have and to hold the same, with all the buildings, offices, outhouses, and other improvements thereon, for and during the term of her natural life, according to the strict intent and meaning of the laws of the State aforesaid, concerning dower, in such cases made and provided. Nevertheless, we, the commissioners aforesaid, by and with the consent of the parties, adjudged that the said Eliza King, for and in consideration of the entire use and benefit of a certain gin and mill, situated on the first tract of land described above, shall pay to the heirs of said Nathan King the sum of five hundred and fifty dollars.

Given under our hand's and seals this eighteenth day of January, in the year of our Lord one thousand eight hundred and twenty-three.

PETER McINTYRE, [SEAL.]
AM. CARRAWAY, [SEAL.]
DAVID D. GIBSON, [SEAL.]
WILLIAM B. SMITH. [SEAL.]

STATE OF MISSISSIPPI, *Franklin county, ss.*

I hereby certify, that the commissioners whose names are hereto assigned, were duly qualified to set off the dower of Eliza King, widow of Nathan King, deceased. January 18th, 1823.

C. C. SLOCUMB.

STATE OF MISSISSIPPI, *Franklin county.*

Pursuant to an order from the honorable circuit court, we, the undersigned commissioners, after being duly qualified, proceeded to lay off to Mrs. Eliza King, her dower of the real and personal estate of the late Nathan King, deceased, viz:

Slaves.

Captain	$800 00
Milly and infant Limbreck	675 00
Sylvester	150 00
Grace	600 00
Maria and child Henry	700 00
Diamond	450 00
Luce	250 00
Jim	687 50
Sylvia	500 00
Old Ben	250 00
Harry	700 00
Juno	375 00
Esther	300 00
Patsey	100 00
Cynthia	200 00
Green	600 00
Linda	500 00
Cloe	400 00
George	200 00
Mack	150 00
Amp	000 00
Charlotte	000 00
	$8 587 50

Horses and mules.

Horse	Brown John	$57 50
"	Charley	40 00
Mule	Jolly	75 00
"	Jenny	50 00
		222 50
		$8,809 00

2 yokes of oxen	145 00
1 wagon and chains	100 00
30 head of cattle, $150; stock of hogs, $105	255 00
300 bushels of corn at 6s.	225 00
Kitchen furniture, $15; Ludlow's map, $6	21 00
4 prs. fire dogs; 1 shovel and tongs	35 50
Books, $10; 1 bureau, $20	30 00
1 lot of tables, $30; 23 chairs, $23	53 00
1 pr. large looking-glasses, $70	70 00
1 salt and chaney ware, $10; 1 clock, $50	60 00
1 pr. smoothing irons, $1; 1 small table, &c., $3	4 00
1 bed and clothing, $30; 1 ditto, $25	55 00
1 bed and clothing, $27 50; 1 do. and bedstead, $40	67 50
1 bedstead, bed, and clothing, $20; 1 do., $20	40 00
1 old table, $1; 1 common do., $2; 3 trunks, $4	7 00
1 rifle gun, $35; 1 whip saw and cross cut do., $10	45 00
11 hoes, $5; 3 briar hooks, $1 50; 5 ploughs, 1 *gues* $9	14 00
1 harrow, $3; axes, wedges, &c., $13	16 00
	$10,052 00
To part in gin and mill	550 00
	$10,602 00

We, the commissioners aforesaid, hereby certify, that we have allotted and set off to Eliza King, widow of Nathan King, deceased, all the above mentioned property, it being her dower, or one-fourth part of all the personal estate of said Nathan King, in Franklin county, that has come under our knowledge.

January 18th, 1823.

PETER McINTYRE, [SEAL.]
AM. CARRAWAY, [SEAL.]
DAVID D. GIBSON, [SEAL.]
WILLIAM B. SMITH. [SEAL.]

Sworn to and subscribed before me, sheriff of the county aforesaid, the day above written.

C. C. SLOCUMB.

I certify the above to be a true copy of the proceedings had in the premises, as taken from the papers filed in my office. Given under my hand and seal this 18th December, 1824. [L. S.]

JAS. A. WITHERSPOON, *Clerk.*

STATE OF MISSISSIPPI,
Franklin county.

Pursuant to an order of the orphan's court of the county aforesaid, to us directed, whom viewed and appraised the following property of the estate of Nathan King, deceased, to wit:

1	negro man	Harry	- - - - -	$800 00
1	" "	Captain	- - - - -	800 00
1	" "	Henry	- - - - -	1,000 00
1	" "	Green	- - - - -	800 00
1	" "	George	- - - - -	700 00
1	" "	Cooper	- - - - -	1,000 00
1	" "	Randle	- - - - -	600 00
1	" "	George	- - - - -	600 00
1	" "	Mach	- - - - -	500 00
1	" boy	Ben	- - - - -	600 00
1	" woman	Rebecca	- - - - -	500 50
1	" "	Hannah	- - - - -	600 00
1	" "	Rachael	- - - - -	600 00
1	negro woman	Maria	- - - - -	600 50
1	" "	Penney	- - - - -	500 00
1	" "	Dolly	- - - - -	500 00
1	" "	Fanny, child Beal	- - - - -	700 00
1	" "	Esther, and child Jackson	- - - - -	600 00
1	" girl	Patsey	- - - - -	350 00
1	" woman	Lucy	- - - - -	350 00
1	" "	Cinthia	- - - - -	250 00
1	" "	Linda	- - - - -	600 00
1	" boy	John	- - - - -	250 00
1	" girl	Ellen	- - - - -	150 00
1	" boy	Abram	- - - - -	750 00
1	" woman	Lindel	- - - - -	550 00
1	yoke of oxen	- - - - -		100 00
1	" "	- - - - -		60 00
3	oxen -	- - - - -		150 00
1	yoke oxen	- - - - -		50 00
6	cows and calves	- - - - -		90 00
2	heifers -	- - - - -		18 00
1	bull -	- - - - -		15 00
2	heifers and 1 calf	- - - - -		14 00
Hogs	- - - - -			150 00
1	mule - - - - -			100 00
1	dun mare - - - - -			25 00
1	mule - - - - -			75 00
1	mule - - - - -			60 00
1	mule - - - - -			70 00
1	horse - - - - -			130 00
1	horse - - - - -			70 00
1	wagon - - - - -			80 00
8	horse ploughs - - - - -			40 00
4	ox " - - - - -			28 00
5	ox yokes and chains - - - -			40 00
2	harrows - - - - -			14 00
5	axes - - - - -			15 00
20	hoes - - - - -			20 00

1 bedstead and bedding	20 00
Table and four chairs	8 00
1 shot gun	12 00
41 head of cattle	328 00
23 hogs, head of	105 00
1 wagon, harness, &c.	180 00
5 ploughs *a* $6	30 00
1 plough	4 00
1 harrow and 7 hoes	9 25
4 grubbing hoes, 3 iron wedges	11 00
2 pairs traces, houses, and doubletrees	5 00
1 set of blacksmith's tools	65 00
15 head of sheep *a* $3	45 00
1 gin box	260 00
1 cutting bar and mill stones, &c.	33 00
1 horse	150 00
1 "	30 00
1 "	140 00
1 "	145 00
1 "	75 00
1 "	100 00
1 "	70 00
1 desk and book case	100 00
1 bureau	30 00
1 set of tables	45 00
1 cupboard	35 00
1 clock	100 00
1 pair looking glasses	85 00
1 pair fire dogs	2 00
1 set of china ware and other articles	50 00
1 negro man Jerry	850 00
1 " Abing and child Caroline	800 00
1 " Maria	550 00
1 " Harriet	350 00
1 boy John	250 00
26 chairs	27 50
Books	21 12½
Ludlow's map	14 00
1 bed and bedding	40 00
1 " "	35 00
1 " "	10 00
1 trunk and table	5 00
1 trunk and case of bottles	17 00
1 bed, bedstead, and bedding	50 00
1 trunk, bed and furniture	52 00
1 bed and bed clothes	50 00
2 trunks $7, bed, bedstead, and bedding	72 00
1 bed, bedstead, and clothes	65 00
1 pair fire dogs $2 50, 1 pair shovel and tongs	5 50

1 pair shot moulds - - - - - -	5 00
1 pot, 1 kettle $11; one do. $2; pots, ovens, &c., $3 50	15 50
1 lot of poles, &c., $8; 1 loom 12 - - -	20 00
Smoothing irons $3; table $4 - - - -	7 00
1 negro woman Milly and child - - - -	800 00
1 " " Ben - - - - -	400 00
1 " " Colentz - - - - -	350 00
1 " " Creasey $200; boy Frank $200 -	400 00
1 " " Mary $200; do. Charlotte $150 -	350 00
1 " Tom $175; girl Grace $600 - - -	775 00
1 " Diamond $900; boy Arthur $350 - -	1,250 00
1 " Sam $1,000; do. Bob $900 - - -	1,900 00
1 " woman $600; boy Peter $800 - - -	1,400 00
1 " woman Lucy $400; 1 do. Parnal $750 -	1,150 00
1 " boy James $750; girl Leah $300 - -	1,050 00
" Hannah, and child $600; boy Diamond $400 -	1,000 00
Boy Charles $350; girl Silvey $350 - - -	700 00
Girl Clyoe $350; Flora and child $760 - - -	1,110 00
Yellow Ben $650; 15 geese at 75 cents - - -	661 25
	$21,546 12½

We the undersigned do certify the above to be a true statement, as stated above, of all the property in this State as shown us by the executors of N. King, deceased.

Sworn to in open court.

MOSES KING,
WYATT OATES,
LEAVIN STEVENS.

I certify the above to be a true copy of the original appraisement filed in my office. November 7th, 1824.

J. C. HAWLEY,
Reg'r marked B.

A memorandum of notes and accounts found in the possession of Nathan King at the time of his death, to wit:

1 note on Nehemiah Scott for - - - -	$88 50
1 " Moses King for - - - -	140 00
1 " Sr. McGohom and Wm. Mays - - -	80 00
1 " the same - - - - -	68 00
1 due bill on John King, jr. (doubtful) - - -	100 00
1 " in favor of Michael Hoole (doubtful) - -	20 00
1 note on Moses King and B. Ford for - - -	100 00
1 " Thomas K. Bickett and J. G. Hidalton -	299 50
1 " John King, jr. (doubtful) for - - -	17 21
1 " John King for $42 dated 1807, (doubtful) -	42 00
1 " John King for $17 40 - " -	17 40
1 " John King for - - - " -	40 00

1 note on John King for - - (doubtful) -	15 00
1 " " " - - - " -	36 00
1 " Moses Smith - - - " -	22 11
1 due bill on John King - - - " -	100 00
1 " on John Cuine - - - " -	50 00
1 note on Micajah Pickett - - - -	75 00
1 " D. Torrey and others - - - -	51 00
1 " Moses King and T. K. Pickett - - -	150 00
1 " Henry C. Oates (in favor of B. H. Huntin) -	56 12
1 " Thos. Meredith - - - -	73 00
1 " John Buil and A. Ford for - - -	131 00
1 " T. K. Pickett and B. Ford - - -	211 00
1 " H. C. Oates - - - - -	19 00
1 " Micajah Pickett - - - -	165 00
1 due bill on Moses King - - - - -	111 46
1 " H. C. Oates and Moses King - - -	40 00
1 account on H. C. Oates - - - -	121 00
1 note on Michael King - - - - -	101 00
1 " McGohom and Hunt - - - -	175 00
1 receipt taken from James McCarroll by N. King for a note of $100, payable to John King by E. Louis, which note was given to said McCarroll for collection, said note dated October 23, 1807, (doubtful) - - -	100 00
1 receipt per Saml. G. Clon for the following notes and accounts for settlement, to wit, one account on Doctor John Shaw - - - - - -	300 00
1 note on John Shaw and Willis McGee - - -	191 50
1 " " " - - -	85 00
A receipt of Samuel G. Clon for a note on L. Keedrek and Tyne O'Neal for $228, with a credit of $102, received by D. Clon for settlement - - -	126 00
1 note on Wm. H. Smith for $4,000, of which Wm. Pickett claims the one-half, with a credit on said note for $500 - - - - - - -	750 00
A receipt on Martin for a note that said Martin received for collection for $260, of which Wm. Pickett claims one-half - - - - - - -	130 00
By one thousand and ninety dollars found in the desk of N. King, deceased - - - - -	1,090 00
One note settled by D. Williams for B. Scott - -	37 38
	$5,980 18½

I certify the above to be a true copy of the original memorandum filed in my office. Meadville, November 7th, 1824.

J. C. HAWLEY, *Register.*

STATE OF LOUISIANA, *parish of Catahoula.*

Be it known to all whom it may concern: Know ye, that I, Samuel

Lightner, judge of the parish of Catahoula, and performing the duties of the judge of probate, did, on this 2d day of December, in the year of our Lord one thousand eight hundred and twenty, repair to the plantation of Nathan King, deceased, and William Pickett, when, and where, and took an inventory of, and caused to be appraised, the property of Nathan King, deceased, as follows, to wit:

1	negro man,	Frank	$900 00
1	" "	Jacob	900 00
1	" "	Joe	800 00
1	" boy,	Stephen	600 00
1	" "	Sampson	450 00
1	" woman,	Rose,	500 00
1	" "	Little Esther and her two children	750 00
1	" "	Hannah and child	700 00
1	" boy,	Caleb	350 00
1	" man,	Cooper	800 00
1	" "	Faff	900 00
1	" "	Dave	300 00
1	" "	Amps	300 00
1	" "	Simon	400 00
1	" woman,	Charlotte	200 00
1	" "	Phœbe	450 00
41	head of cattle		287 00
Horses and mules			402 50
Farming tools, wagon, and blacksmith's			210 00
31	head of hogs		172 00
Household furniture			12 50
			$10,384 00

By consent, ordered, that Frank Long and William Anderson be, and they are hereby, appointed to appraise the property specified in the foregoing inventory.

Signed, BARTLETT FORD,
Executor of N. King, deceased.
SAM'L LIGHTNER,
Parish judge.

We, the undersigned, being duly appointed and sworn to appraise the property specified in the foregoing inventory, do certify, that we have appraised the same, as stated in the process verbal of said inventory, in writing, and in figures in columns of figures, amounting in the whole to the sum of ten thousand three hundred and eighty-four dollars.

Signed, FRANCIS LONG,
W. ANDERSON.

I certify the foregoing is a true copy, taken from the original on file of record in my office.

Given under my hand and seal of office, this 4th day of December, 1820.

[L. S.] SAM'L LIGHTNER, *Parish judge.*

I certify the foregoing eight pages to be a true copy of the original inventories of appraisement of, and memorandum of, debts due the estate of Nathan King, deceased, on file of record in my office.

Given under my hand and seal, this 7th day of November, A. D. 1824.

[L. S.] J. C. HARDY,

Register orphan's court, Franklin county, Mississippi.

Marked B.

STATE OF MISSISSIPPI, *Franklin county.*

Be it known to all whom it may concern, that Eliza King has this day received her distributive part of the personal estate of her deceased husband, Nathan King, and given her bond to me for the payment of the one-fourth part of all the debts due from said estate, (except what cotton is now on hand and unsold.)

Now, therefore, I, Bartlett Ford, executor of said estate, do hereby promise to give her, the said Eliza King, credit for the one-fourth part of said cotton on her part of the debts.

January 16th, 1823. BARTLETT FORD,
Executor of N. King.

Teste: C. C. SLOCUMB.

STATE OF MISSISSIPPI, *Franklin county.*

Circuit court, October term, 1824.

The heirs of JOHN KING, deceased,
vs.
BARTLETT FORD, executor.

Pleas before the honorable Edward Turner, one of the judges of the circuit court of law in and for the State of Mississippi, at a circuit court holden at the court-house in and for the county of Franklin, on the second Monday in October, in the year eighteen hundred and twenty-four.

Be it remembered, that heretofore, to wit, at a circuit court holden at the court-house in and for the county aforesaid, on the second Monday in April, [in] the year eighteen hundred and twenty-four, the heirs of John King, deceased, by E. Magee, their attorney, brought into the court aforesaid their bill against Bartlett Ford, executor of Nathan King, deceased, in a plea of trespass on the case; and said bill hath for pledges of prosecution, to wit, John Doe and Richard Roe, and it is in the words following, to wit:

STATE OF MISSISSIPPI, *Franklin county.*

Circuit court, April term, 1824.

To wit, Michael King, Moses King, John King, Harriet King, and Alfred King, the heirs of John King, deceased, by their guardian William Pickett, and Moses King, complains of Bartlett Ford, executor of the last will and testament of Nathan King, deceased, in custody, &c., of a plea of trespass on the case. For that whereas the said Nathan

King, to wit, at the county aforesaid, during his lifetime was appointed guardian of the plaintiffs, and acted as such from the day of , 18 , up to the time of his death, to wit, on day of , 18 , and during which time he, said Nathan King, received from the proceeds, labor, and hire of the property of the plaintiffs, several large sums of money, amounting in all to the sum of fifteen thousand dollars, by means whereof the said Nathan became, and was, indebted to the plaintiffs in the said sum of fifteen thousand dollars, for so much money during that time had and received by the said Nathan, to and for the use of the plaintiffs; and being so enabled, the said Nathan afterwards, to wit, at the time and county of Franklin aforesaid, undertook and faithfully promised to pay the plaintiffs the said sum of money when thereunto afterwards requested; yet the said Nathan in his lifetime did not pay the said sum of money, or any part of it, though often requested; nor has the said Bartlett Ford, executor, &c., since the death of the said Nathan, paid the said sum of money, or any part of it, though often requested, but to pay the same has hitherto wholly neglected and refused, and still neglects and refuses, to plaintiff's damages fifteen thousand dollars; they, therefore, bring suit.

EUGENE MAGEE,
Attorney for plffs.

And now, at this time, comes the defendant, by his attorney, and defends the wrong and injury, when, &c., and says the plaintiff aforesaid his action aforesaid to have and maintain ought not, because, he says, the said Nathan King, in his lifetime, did not promise and assume, in manner and form as said plaintiffs in their declaration against them; and of this they put themselves upon the country.

KEGGAN, *for defts.*

Afterwards, to wit, at the same term of the court aforesaid, the heirs, by their attorneys aforesaid, as the said Bartlett Ford, executor as aforesaid, by his attorney aforesaid, move the court here, that the whole matter in the premises between them in variance may be referred, according to the statute in such cases made and provided, to persons indifferent between the parties to adjust the same. Whereupon, by consent of parties and their counsel, that all matters in this case now in controversy be referred to John Cameron, James C. Hawley, and David D. Gibson, as referees, to arbitrate the same; and that the award of the arbitrators be final and conclusive on all matters in controversy in this suit, and that the same be returned to the next October term of this court, and be entered up of record as the judgment of this court in the premises; the arbitrators to meet at such times, &c., places as will best suit their convenience, and continue or adjourn their deliberations at pleasure, until all claims of the parties be fully acted on and adjusted; the arbitrators giving the parties reasonable notice of the time and place of their meeting; each party agreeing to pay an equal proportion of the costs that may accrue in bringing this matter to a final conclusion; and this cause was continued.

Afterwards, to wit, at a circuit court holden at the court-house in and

for the county of Franklin, on the second Monday in October, in the year eighteen hundred and twenty-four, comes the parties, by their attorneys aforesaid, and the said John Cameron, James C. Hawley, and David D. Gibson, according to the power granted them by the aforesaid rule of reference, now make this return to the court here of their award, in form following, to wit:

STATE OF MISSISSIPPI, *Franklin county.*

Heirs of JOHN KING, deceased,
vs.
B. FORD, executor.

We, the undersigned, referees in the above stated case, pursuant to a rule of reference to us directed from the honorable circuit court of said county, April term, 1824, have this day caused the parties to come before us, and have taken the several matters into consideration, referred to us in the above case, and award to the plaintiffs the sum of six thousand one hundred and twenty-six dollars and $\frac{6}{100}$, and costs of suit.

Given under our hands and seals, at Meadville, this 9th day of September, anno domini 1824.

JOHN CAMERON, [SEAL.]
DAVID D. GIBSON, [SEAL.]
JESSE C. HAWLEY. [SEAL.]

Whereupon on motion of the said heirs, by their attorneys, and it appearing to the court here that the said heirs have complied with the necessary requisites as required by law, in order to have judgment upon the award aforesaid, therefore it is considered by the court here that said heirs recover against the said Bartlett Ford, executor as aforesaid, as well the said sum of six thousand one hundred and twenty-six dollars and $\frac{6}{100}$, the damages aforesaid, by the arbitration in form aforesaid awarded, as the sum of thirteen and $\frac{68}{100}$ dollars for their costs and charges by them about their suit in this behalf expended; and the said B. Ford, executor as aforesaid, in mercy, &c.

I certify the above to be a true copy of the record in the above case. Given under my hand and seal of office, this 28th December, 1824.

[L. S.]

JAMES A. WITHERSPOON, *Clerk.*

The heirs of JOHN KING, deceased,
vs.
BARTLETT FORD, executor of Nathan Ford, deceased.

Pleas before the honorable Edward Turner, one of the judges of the circuit court of law, in and for the State of Mississippi, holden at the court-house in and for the county of Franklin.

Be it remembered, that on the 20th day of November, 1824, the said plaintiffs sued out of said court a writ of fieri facias, in the words and figures following, to wit:

Copy of writ.

THE STATE OF MISSISSIPPI, *Franklin county.*

The State of Mississippi, to the sheriff of Franklin county, greeting:

We command you that of the goods and chattels, lands and tenements, which were of Nathan King, deceased, in the hands of B. Ford, administrator of said deceased, late of your county, you cause to be made the sum of six thousand and twenty-six dollars and $\frac{59}{100}$, which the heirs of John King, deceased, lately in our circuit court have recovered against them for their damages which they have sustained by reason of the non-performance of a certain promise and assumption by the said Bartlett Ford, administrator as aforesaid, to the said heirs aforesaid, lately made, with interest on said sum at eight per cent. per annum from the 12th day of October, 1824, until paid; also the sum of thirteen and $\frac{62}{100}$ dollars for their costs by them about their suit in that behalf expended; whereof the said Bartlett Ford, administrator as aforesaid, [was] convicted as appears to us of record; and that you have the said moneys before the judges of the State aforesaid, at a circuit court to be holden at the court-house, in and for the county of Franklin, on the second Monday in April next, to render to the said heirs for their damages and cost aforesaid; and have then there this writ.

Witness the honorable Edward Turner, presiding judge of the second judicial district of the State aforesaid, at the court-house in the county aforesaid, on the second Monday in October, in the year of our Lord one thousand eight hundred and twenty-four, and in the forty-ninth year of the independence of the United States of America.

Issued the 20th day of November, 1824.

JAMES A. WITHERSPOON, *Clerk.*

On which was the following taxation of costs, to wit:

Clerk, writ and docketing - - - - - -	$1 12½
appearances - - - - - -	25
continuance - - - - - -	12½
order and copy of reference - - - -	50
filing papers and pleas - - - - -	25
judgment - - - - - - -	25
record - - - - - - -	2 50
taxing costs and copy - - - - -	75
execution and filing - - - - -	87½
juror - - - - - - -	2 00
attorney Magee - - - - -	5 00
	$13 62½

On which said fieri facias the sheriff, on the 11th day of April, 1825, made the following return, to wit:

Received 15th day of December, 1824. Levied upon certain negroes, to wit, Diamond, Luce, Jim, Grace, Green, Cliah, Jackson,

Cynthia, and Henry, on the 27th day of December, 1824. R. G. Gibson and Gray Briggs, securities in a bond to try the right of property.

E. R. CAIN, *D. Sheriff.*

Levied upon other negroes, to wit, Arthur, Coatney, Harriet, Cooper, Rachel, Bennet, Hannah, Little Dime, and Mary, the ninth of February, 1825. R. Bein and R. Anderson, securities in forthcoming bond.

D. P. CAIN, *Sheriff.*

Which is in these words, to wit:

Forthcoming bond.

Know all men by these presents, that we, B. Ford, executor of Nathan, deceased, R. Bein, of Franklin county, Mississippi State, are held and firmly bound unto the heirs of John King, deceased, in the full and just sum of twelve thousand three hundred and fifty-three dollars $\frac{53}{100}$; the payment of which, well and truly to be made, we bind ourselves, and each of us, our heirs, executors, administrators, and assigns, jointly and severally, firmly by these presents.

Sealed with our seals, and dated this 9th day of February, 1825.

The conditions of the above obligations are such, that whereas the heirs of John King, deceased, of said county and State, have lately sued out [of] the circuit court of Franklin county a writ of fieri facias, against the goods and chattels, lands and tenements, of Bartlett Ford, executor of Nathan's estate, for the sum of six thousand one hundred and seventy-six *dollars* and $\frac{76}{100}$ dollars; which said writ of fieri facias was this day levied on certain negroes, to wit, Arthur, Coatney, Harriet, Cooper, Rachel, Benae, Hannah, Little Dime, Mary; taken in execution as the property of defendant to satisfy the heirs of John King, deceased, of their judgment and cost, according to the statute in such case made and provided; which said property is suffered to remain in the possession of the above bounden B. Ford, executor as aforesaid, upon his executing this bond.

Now, if the above bound B. Ford, executor, shall deliver to D. P. Cain, sheriff of Franklin county, the above named property on the third Monday in March next, by 12 o'clock noon of said day, to be disposed of according to law, to satisfy the above named writ and costs, then, and in that case, the above obligation to be null and void, otherwise to remain in full force and virtue.

B. FORD, [SEAL.]
Executor of N. King.
R. BEIN, [SEAL.]
Ro. ANDERSON. [SEAL.]

Signed and sealed in presence of—
D. P. CAIN, *Sheriff.*

And afterwards, to wit, on the 26th day of December, 1825, the said plaintiff sued out from the court aforesaid a writ of fieri facias, in the words and figures following, to wit:

Copy of writ.

STATE OF MISSISSIPPI, *Franklin county.*

The State of Mississippi, to the sheriff of Franklin county, greeting:

We command you, that of the goods and chattels, lands and tenements, of Bartlett Ford, executor of Nathan King, deceased, Richard Bein, and Robert Anderson, late of your county, you cause to be made the sum of six thousand one hundred twenty-six $\frac{59}{100}$ dollars, which the heirs of John King, deceased, lately in the circuit court have recovered against them for debt; also the sum of four hundred and ninety and $\frac{12}{100}$ dollars, which to the said heirs in the said court were adjudged for their damages by reason of the detention of the said debt, with interest on the said sums at eight per centum per annum, from the 12th day of October, 1825, until paid, *on* the sum of seventeen $\frac{2}{100}$ dollars for costs by them about their suit in that behalf expended, whereof the said Bartlett, executor as aforesaid, Richard, and Robert [are] convicted, as appears to us of record. And that you have said moneys before the judges of the State aforesaid, at a circuit court to be holden at the court-house, in and for the county of Franklin, on the second Monday of April next, to render to the said heirs for their debt, damages, and costs aforesaid; and have then there this writ.

Witness the honorable Edward Turner, presiding judge of the second judicial district of the State aforesaid, at a circuit court holden at the court-house in and for said county, on the second Monday in October, in the year of our Lord eighteen hundred and twenty-five, and in the 50th year of the independence of the United States of America.

Issued 26th day of December, 1825.

JAMES A. WITHERSPOON, *Clerk.*

On which was a taxation of costs as follows, to wit:

Clerk	$6 12½	
Judgment on bond	25	
Execution	75	
		$7 62½
Juror	2 00	2 00
Sheriff Cain	2 50	2 50
Attorney Magee	5 00	5 00
		$17 12½

And on which was the following endorsement, to wit: No security is to be taken on this execution.

JAMES A. WITHERSPOON, *Clerk.*

And on the 12th April, 1826, the sheriff made the following return thereon, to wit:

Received 2d January, 1826, six hundred dollars paid on this fi. fa., and staid for the remainder.

D. P. CAIN, *Sheriff.*

And afterwards, to wit, on the first day of May, 1826, said plaintiff sued out of this court an alias fi. fa. upon said forthcoming bond, which said alias fi. fa. is now in the hands of the sheriff of Franklin county, returnable on the second Monday in October next.

I do certify, that the foregoing five pages to be a true copy of the several executions and endorsements and returns thereon, and bond, of which it purports to be a copy of the record of the above case since the rendition of the judgment, except a copy of the execution now in the hands of the sheriff.

[L. S.] Given under my hand and seal of office, this 18th day of August, 1826.

JAMES A. WITHERSPOON, *Clerk*.

Power of Attorney.

STATE OF MISSISSIPPI, *Franklin county.*

Know all men by these presents, that I, James Brown, of the county and State aforesaid, have made, constituted, and appointed, and by these presents make, constitute, and appoint, James A. Witherspoon, of the county and State aforesaid, my true and lawful attorney, irrevocable, for me and in my name, but to the sole use of him, the said James A. Witherspoon, to prosecute or defend all suits, either at law or in equity, that [are] now pending, or may hereafter be instituted, relative to the estate of Nathan King, deceased, in any manner whatever, and to sue and be sued on part and behalf of the said James Brown; also to ask, demand, and receive, and for the sole use and benefit of him, the said James A. Witherspoon, all the personal estate which I, the said James Brown, got by my late deceased wife, Eliza, to wit: Green, Milly and her child Venus, Amps, Diamond, Luce, John, Grace, Captain, Maria and her two children Henry and Mary; Harry, Esther, Mack, George, Juno, Patsey, Linda, *Clur* and her two children Jackson and Bartlett; Penny, Cynthia, and Sylvia.

Also the following described personal property, to wit: Two yoke of oxen; also twenty-five head of cattle, more or less, marked with a swallow fork in one ear, and a cross and half cross in the other; also three head of horses, and three head of mules, one wagon; also my household and kitchen furniture, and farming utensils of every description; to sue for, defend, and receive the above described slaves and personal property in my name, and for the use of the said James A. Witherspoon, giving, and by these presents granting, to the said James A. Witherspoon, my full power and authority, in my name, place, and stead, to do all and every act and acts, thing and things, devise and devises, in law or in equity, whatsoever, for the recovery of the above described slaves and personal property, as fully, to all intents and purposes, as I myself might or could do. And upon the receipt thereof, acquittances or other discharges for me and in my name to make, seal, and execute; hereby ratifying and confirming and allowing whatsoever my said attorney shall lawfully do, or cause to be done, in or about the premises.

In witness whereof I have hereunto set my hand and affixed my seal, this 3d day of October, 1825.

JAMES BROWN. [SEAL.]

Signed, sealed, and delivered in presence of—
EPHRAIM G. PEYTON.

STATE OF MISSISSPPI, *Franklin county.*

This day personally appeared before me the undersigned, justice of the peace in and for said county, the within named James Brown, who acknowledged that he signed, sealed, and delivered the within letter of attorney on the day and year therein mentioned, as his act and deed, for the purposes therein mentioned.

Given under my hand and seal, 3d day of October, 1825.

JAMES BROWN.

LEWIS MAGEE, *J. P.* [SEAL.]

Recorded October 28, 1825.

JONA. RUSSELL, *Clerk.*

STATE OF MISSISSIPPI, *Franklin county.*

COUNTY CLERK'S OFFICE, *August 16th*, 1826.

I do certify the foregoing to be a true copy of the original, which is recorded in my office.

Given under my hand and seal of my office, the day and date above written.

[L. S.] JONA. RUSSELL, *Clerk.*

And on the same day, to wit, came the defendants, Michael, Alfred, Harriet, Moses, and John King, and filed their answer, which is as follows:

Defendants' joint answer.

To the honorable Joshua G. Clarke, chancellor of the State of Mississippi, in the superior court of chancery, for the western district, sitting:

The joint answer in chancery of Michael King, for himself, and as guardian for Harriet and Alfred J. King, and Moses King and John King, heirs of John King, deceased, to a bill in chancery exhibited in said court by Bartlett Ford, executor of Nathan King, deceased, and others, against James Brown, James A. Witherspoon, and themselves.

These respondents, now and at all times hereafter, saving and reserving to themselves the benefit of all just, legal, and equitable exceptions to the many errors and mistakes and misstatements contained and set forth in said complainants' bill, for answer to [so] much thereof as they are advised is material for them to answer, say:

So far as the said complainants and their co-defendant, James Brown, may or may not have matters to litigate, either at law or in chancery, is unknown to the respondents; nor is it a matter of any interest what-

ever to these respondents, (as they humbly conceive,) and they therefore protest against being linked in, or in any manner connected with, said Brown in any controversies which said complainants may have with him, and therefore conceive it unnecessary to respond to so much of complainants' bill as relates to said Brown, or to James A. Witherspoon as the agent of said Brown.

These respondents admit their judgment at law, and refer to a copy of the record thereof, marked D, and make the same a part of this answer. Said judgment, as will appear by the record thereof, was obtained against Bartlett Ford, as executor of Nathan King, deceased; and that after the rendition of said judgment, on execution issued thereon, which, as they believe, was by the procurement of said Ford levied upon the property of James Brown; and said Brown gave a bond to try the right of property, which trial was for some time depending, and those respondents thereby greatly and unjustly delayed in the collection of said judgment; and that afterwards their attorneys, finding (as these respondents suppose) that they could not make the money out of said Brown's property, as the said levy was illegal and improper, dismissed said levy, as these respondents are informed, thereby *watching* these respondents with the costs of the levy, so amounting to $78 47 cents. They admit that thereafter another execution was issued on said judgment; and the same being levied, the said B. Ford, executor, still determined to hinder and delay these respondents in the collection of their debt aforesaid, executed a forthcoming bond, which bond he afterwards failed to comply with, and forfeited the same on the 3d Monday in March, 1825, and executions have since issued thereon. To copies of all said executions and bond, together with the endorsements and returns thereon, these respondents refer, marked E, and make them a part of this answer.

And these respondents would further answer and say, that the said defendants, by alternately making fair promises and entreating for indulgence, and by hindering and delaying the collection of said judgment up to the present time, have greatly injured these respondents, who greatly needed the said money; and said defendants, now complainants, in the bill, not content with the indulgence already received, are further attempting to hinder and delay these respondents in the collection of their debt, under the pretence that said judgment beneficially belongs to their co-defendant Brown; but which fact these respondents most expressly deny, and answer and say, that they have never assigned or transferred the same to said Brown, or any part thereof; but that the money due in said judgment properly belongs to these respondents; they say it is true, that in May, 1826, their attorney, Eugene Magee, having, as they were informed and believe, removed from the State, and being deprived of his assistance in the collection of the same, and some of the complainants, defendants in said judgment, having given out in speeches that they would not pay said judgment, but would supersede the same, they did, for the purpose of enabling themselves to collect their money, employ their co-defendant, James A. Witherspoon, as their agent, to manage and conduct the same, and

agreed to give him five per cent. for his services and assistance, which he agreed to render them, and for that purpose they assigned to him said judgment, with a view of giving him the control and management of the same in the collection thereof; and at the same time took from him an obligation to pay them the whole, to be collected as soon as the same should be made, except five per cent., which, by contract, he was to receive for his trouble and services aforesaid, which they were induced to do, because they were unacquainted with the management and conducting of executions, and believed that, if said James A. Witherspoon should have the management of the same, that the sheriff would promptly and speedily make the money; in which said contract with said Witherspoon said Brown was neither party nor privy, so far as these respondents positively believe.

They further answer and say, that they are advised to say the said transfer (if it may be so called) to said Witherspoon and his obligation to them formed but one contract, constituting him their agent for the purpose before stated in this answer; at least they will say that that was their understanding, intention, and belief at the time said contract was made; but they say it is true they were willing that the sheriff should believe said Witherspoon to be the owner thereof, believing he would be more prompt in the discharge of his duty, as they deemed their said agent an active, energetic collector.

These respondents further answer and say, that they are advised to say that the execution now in the hands of the sheriff was issued according to and pursuance of said forthcoming bond and its true tenor and legal effect, but it being, as they conceived, a question of law, is respectfully submitted to your honor; but if said execution has erroneously issued, that it is a matter solely and only remediable at law and not in chancery, but which is submitted to your honor; and these respondents rely upon, and plead their judgment in bar of the relief sought by complainants. They answer and say, that it is true that partial payments have been made on said judgment, which not only ought to be credited, but which they are perfectly willing to credit on said judgment, and they deny that they ever intended, or do now intend, to collect, or suffer to be collected, more than is justly due, and state that the complainanants have now in their possession vouchers for every cent that has been paid, and which they are willing to have entered on said execution at any moment, which fact the complainants very well know; they state that the credits, to which said defendants at law, complainants in chancery, are entitled to, amount, as near as these respondents can ascertain, to the sum of ———————— dollars, leaving a balance of about three thousand dollars or upwards, due them on said execution, and which credits they will give if said complainants will produce their vouchers on the 21st instant, the day of sale (as they are informed;) as some of the payments were made to their attorney at law, the precise amount they do not know. And having fully answered, as they conceive, all the allegations of said complainants' bill that are material to be answered by them, they deny all fraud and continuation whatever, for the purpose of harassing or oppressing said complainants,

or any of them; they conceive the levy properly made, and rely upon the proposition that said bond of said B. Ford and security, that the execution now in the hands of the sheriff is legally issued as it now stands and reads; and these respondents, so far as they are or may be concerned, require proof of all the allegations set forth in complainants' bill not in this answer expressly admitted, traversed, or denied, and pray the injunction and supersedeas prayed for by said complainants may not be granted, and if granted, that the same may be dissolved and discharged with costs and damages, and said bill be dismissed, and that they may hereby be dismissed with their costs, &c., and have the full benefit of their judgment at law; and as in duty bound, &c.

MICHAEL KING,
For himself, and as guardian for Alfred King and Harriet S. King.
MOSES KING,
JOHN KING.
R. W. WEBB, *Sol'r for deft's.*

STATE OF MISSISSIPPI, *Franklin county.*

This day personally appeared before the subscriber, a justice of the peace in and for said county, Michael King, Moses King, and John King, who subscribed the above answers in chancery, and made oath that the facts stated therein from their own knowledge are true, and so far as they are stated from information, they believe them to be true.

Given under my hand and seal, this fifteenth day of August, 1826.

LOUIS MAGEE, *J. P.* [SEAL.]

And afterwards, to wit, on the 20th December, 1826, came the defendant, James Brown, and filed his answer, which is as follows:

Answer of James Brown, defendant.

To the honorable Joshua G. Clarke, chancellor of the State of Mississippi, in the supreme court of chancery for the western district, in chancery sitting.

The answer of James Brown to the original and amended bill in chancery exhibited in said court, by Bartlett Ford and others, against your respondent and others. This respondent, now and at all times hereafter, saving and reserving to himself the benefit of all just legal and equitable exceptions to the many errors, mistakes, and misrepresentations contained and set forth in the said complainants' bill, for answer to so much thereof as he is advised is material for him to answer, answereth and saith: That as to so much of the bill of complainants as relates to the last will and testament of Nathan King, dec'd, he deems it unnecessary for him either to admit or deny the same, inasmuch as it is made a part of the bill, and will no doubt be produced by complainants, but the application to and bearing upon the present controversy this respondent questions and denies.

This respondent is ready to admit, that John Pickett, the first husband of complainant, Amy, died, leaving only one child, complainant,

Adeliza, and also the respective marriages between complainant, Robert and Amy, Richard and Matilda, and James C. and Susannah, the said Amy, Matilda, and Susannah being the children of said Nathan King, deceased. This respondent admits, that said Eliza Brown, deceased, formerly the widow of said Nathan, did petition the honorable superior court of Franklin county, on the chancery side thereof, for an assignment and allotment of her dower in the estate of said Nathan, and obtained a decree and order for that purpose in 1821, but for more certainty a copy of the record thereof is referred to, marked A, and made a part of this answer; but this respondent denies that the same was illegally or irregularly obtained, or without notice to the executor, as is most erroneously charged in the complainants' bill, but on the contrary, the executors had notice, and appeared by counsel; and your respondents aver, that said assignment and allotment of dower, decree, and order, remains not in the least reversed, annulled, or set aside, but on the contrary, in full force, both at law and in equity, and on which decree and proceedings this respondent confidently relies as conclusive between the said complainants and himself; and all persons claiming property or effects either under the said Eliza, deceased, or this respondent, as to all matters and subjects embraced by said decree, and pleads the same in bar of the relief sought by complainants touching the subject-matter hereof. This respondent further answers and says, that he does not know what amount of debts were due and coming from the estate of Nathan King at the time of his death, and therefore cannot admit the amount stated by complainants in their bill, as he denies that the said B. Ford, as executor, has made a settlement of his accounts as executor with the probate court of Franklin county, and thereby shew the situation of said estate, although, as this respondent expressly charges, that there were debts due the said Nathan King at the time of his death, to a large amount, and also personal estate, which came to the hands of said B. Ford, as executor, as will more fully appear by reference to the inventories, returned copies of which, marked B, are referred to and made a part of this answer; and this respondent expressly charges, that the executors received the crops and profits of the estate of said Nathan King, deceased, for several years, amounting to large sums, and forming assets in his hands for the payment of debts, until the debts against said estate should be extinguished, and the surplus, if any, forming a sum for distribution among the legatees and distributees, and for which the said executor has not, as yet, accounted. This respondent further charges, that he is informed and believes, that the profits of the estate of the said Eliza, deceased, or a great portion thereof, both before and after the assignment of her dower in said estate, was applied to the discharge of debts against the said Nathan's estate, or was received by said executor for that purpose, if not paid by her; so that this respondent expressly charges, that she paid as aforesaid her full and entire proportion of the debts against said estate, as he believes, as this respondent will show by the record of the decree marked A; that although said decree was pronounced in 1821, that the same was not executed until January, 1823, during which time said executors

received the profits of the whole estate of said N. King, deceased; and also the proceeds of the crop of cotton then unsold, which will more fully appear by reference to a receipt given by said executor to said Eliza, deceased, marked C, and made a part of this answer. But this respondent insists, that if the said Eliza, in her lifetime was, or this respondent since her death is, bound to pay any further sum or sums towards the discharge of debts against said estate of said Nathan, deceased, that such liability can only be enforced at law and not in chancery, but which is respectfully submitted to your honor, and that at least such liability cannot be enforced at the instance of said executor, until he shall make a final settlement and show a deficit of assets, and the amount thereof, and the amount and extent of such liability, if any such liability exists, and which is denied; but being, as this respondent humbly conceives, more properly questions of law, are respectfully submitted to your honor.

This respondent further charges, that there *was* debts due by bonds, notes, and accounts, to the said Nathan King at the time of his death, amounting to upwards of five thousand dollars, as will appear by said exhibit A, of which amount no portion thereof was given or assigned to said Eliza for her dower, but left in the hands of said executor as assets, as will appear by the exhibit A; and that also at the time of the death of said Nathan, he had on hand moneys to a large amount, but the precise amount is unknown to this respondent, and which he is informed and believes, came to the hands, the knowledge, and possession of said executor, which is not in said inventories, thus forming in his hands assets; to which statements this respondent calls upon said executor to answer, and if not admitted by him, he begs leave to be permitted to prove the same during the process of this suit. This respondent denies that he had been unwilling to pay any portion of the debts against said estate of said Nathan King, deceased, but states that in the month of April, 1825, he requested James A. Witherspoon to state to said complainants, to wit, B. Ford, Robert, Richard, and James, that if the said B. Ford would come to a settlement with the probate court, he would pay any portion of the debts of said estate which would come to his part; and that said Witherspoon in pursuance of said request, and conceiving that he was performing a friendly office, did make said propositions to said complainants, Robert and Richard, but that said B. Ford did not make said settlement; and afterwards, instead of said B. Ford, executor, as aforesaid, coming to said settlement, as this respondent verily believes, combining with complainant, James C., and others to this respondent unknown, for the purpose of injury, oppressing, and ruining this respondent, applied to a certain Ed. Turner, late a counsellor and attorney at law, who was the attorney for the plaintiff in a certain suit lately depending in the circuit court of Franklin, in which John Vanderbell was plaintiff, and said complainant, B. Ford, as executor aforesaid, was defendant, and artfully and fraudulently concealed from said E. Turner the fact that said judgment had been satisfied for an order to the clerk to issue an execution on said judgment, and thereby procured an execution to be issued, and caused the same to be

levied on the property of this respondent, to wit, twenty negroes, and caused the same to be sold on the first Monday in October, 1825, in one lot, for the trifling sum of five thousand dollars, although said execution was against said B. Ford, as executor aforesaid, and not against this respondent; and although the partial execution of said writ of fieri facias was suspended previous to said sale, yet said B. Ford and others fraudulently persisted in causing said fieri facias to be executed in the way and manner before set forth; in consequence of such unfair and fraudulent conduct on the part of said complainant Ford and others this respondent has been put to great trouble and expense in regaining, by legal means, the possession of said slaves, and in consequence of which this respondent is determined never to pay any more of the debts of said Nathan King, deceased, until compelled by law, though this respondent by no means admits, but denies, that he is bound to pay any more of said debts.

This respondent therefore *this respondent therefore* calls upon the said B. Ford, as executor aforesaid, (if in the opinion of your honor it is a matter cognizable in this honorable cour ,) to account for and shew how much he received of the profits of said estate of said Nathan King, deceased, before the assignment and allotment of dower to said Eliza; also the amount of the sales of the cotton unsold on the 16th of January, 1823; and also the amount of money which was in the hands of said Nathan at the time of his death, and which came to the knowledge and possession of said executor, and that several amounts may be considered and recorded as assets in his hands for the payment of and discharge of the debts against said estate before the said respondent shall be required, either at law or in equity, to pay anything towards the discharge of debts against said estate. This respondent admits the marriage between the said Eliza and himself, but cannot state the date thereof; he also admits the death of said Eliza, but cannot state the date of her death. He also admits that he took possession of the property belonging to said Eliza, and in her possession at the time of their marriage.

This repondent also admits that his co-defendants, the heirs of John King, deceased, obtained a judgment against said B. Ford, as executor of said Nathan, deceased, in the circuit court of Franklin; and also that several executions have issued thereon, and that said Ford executed a forthcoming bond, but for more certainty he refers to a copy of the records of said judgment, marked D; and also to copies of said executions and the endorsements and returns thereon; and also to a copy of the forthcoming bond, and makes them a part of this answer, marked E. He further answers and says, that he does not know what credits ought to be given on said judgments; he is informed that said credits ought to be given, and which he is willing shall be given so far as this respondent is concerned, and which is not all.

This respondent cannot say whether or not the said Eliza has received more than her distributive , nor can he answer more particularly to that part until the estate is settled, nor does he know what arrangement, (if any, or promises the said Eliza made relative thereto.)

He admits he executed the power of attorney alluded to in the complainant's bill, and states he had a right to make it. He also admits that, being about to take a journey to South Carolina, he executed the bill of sale mentioned, but since the said bill of sale has been cancelled by the mutual consent of the said Witherspoon and this respondent. He denies that there exist any other deed of conveyance or trust relative to said property, as is most erroneously stated by said complainants. He denies that he intends to remove out of the State, and take the property away, as is falsely charged, but he admits that his business will require his absence from the State for a while, and that he expects to be absent for a short time on business.

He states that he has real estate in this State. He has already stated that he has no interest in the said judgment by Witherspoon. He admits that said Witherspoon was and is his agent for managing the suit; he denies all agency or participancy in the suggested alterations made in the record in any of the proceedings by said Witherspoon.

This respondent having, as he is advised, answered all the allegations in said complainants' bill, which is material for him to answer, begs leave upon the further progress of this suit, it may be necessary and proper for him to make a further answer, that he may be permitted to do so.

This respondent calls upon the said complainants to prove all the allegations of their bill not in this answer expressly admitted, traversed, or denied.

He pleads the judgment at law and forthcoming bond in bar of the relief sought by complainants, and prays that the prayer of the complainants for an injunction and supersedeas may not be granted, and if granted, that the same may be dissolved and discharged, and that the said plaintiffs in execution may have the benefit of their judgment at law, bond and execution, and this respondent may be hence dismissed with his costs, &c. And, as in duty bound, he will pray, &c.

ADAMS & SPRAGUE,
For respondent.

STATE OF MISSISSIPPI, *Adams county.*

This day personally appeared before me, the subscriber, a justice of the peace in and for the county of Adams, James Brown, the respondent, and made oath that the facts stated in the foregoing answer are true, so far as they are stated from his knowledge, and so far as they are stated from the information of others he believes them to be true.

Given under my hand and seal this 5th day of December, 1826.

JAMES BROWN.

Sworn to and subscribed before me,

H. TOOLEY, *J. P.*

1 December, 1826.

And afterwards, to wit, on the 1st day of January, 1828, came the complainants and filed their replication, which is as follows:

Replication.

In the superior court of chancery for the western district of Mississippi.

BARTLETT FORD, ex'r, et al., complainants,
vs.
JAMES BROWN et al., defendants.

The replication of complainants to the answer of James Brown, one of the defendants.

The repliants, saving and reserving to themselves all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto say, that they will now [maintain] and prove their said bill to be true, certain, and sufficient in law to be answered unto; and that the said answer of said defendant is uncertain, untrue, and insufficient to be replied unto by these repliants; without that any other matter or thing whatsoever in said action contained, material or effectual in the law to be replied unto, confessed and evicted, traversed or denied, is true; all which matters and things these repliants are and will be ready to aver, maintain, and prove, as this honorable court shall direct; and humbly pray, as in and by said bill they have already prayed.

QUITMAN & McMURRAN,
Complainants' solicitors.

And afterwards, to wit, on the 21st November, 1828, came the complainants, and filed their supplemental bill, which is as follows:

The supplemental bill of *Seuza*, and petition of Robert Anderson and Amy, his wife, Richard Bein and Matilda, his wife, James C. Hawley, and Eliza Hawley, daughter and only heir of James C. Hawley and Susannah, his late wife, now deceased, by her next friend, the said James, and Adeliza Pickett, daughter of said Amy by her first husband, deceased, by her guardian, Robert Anderson.

Your orators, insisting upon all the matters and things contained in their original bill and amended bill, and that the same are in all respects true, further represent, that James A. Witherspoon, one of the defendants to said bill, the agent for said James Brown, and the principal security in the ne exeat bond executed in said case by said James Brown, as principal therein, is about leaving this State, as they verily believe, to places beyond the limits thereof, and out of the jurisdiction of this honorable court, and to carry with him, if possible, the said negro slaves mentioned in said bills and said writ of ne exeat against said Brown, two or three of whom he has already carried off to the State of Louisiana, all of which negroes are in the possession and under the control of said James A. Witherspoon. That the said James has also advertized and offered for sale his landed property in this State; and that Gray Briggs, his security in the ne exeat bond in this case, has also declared it to be his determination to remove with his property out of this State, and beyond the jurisdiction of this court. And your

orators represent that they are apprehensive and verily believe that if the said James A. Witherspoon should depart from the State with said slaves, as he has declared his intention to do, they will lose their remedy against him, and will be greatly prejudiced in the premises, as the said James A. Witherspoon has threatened to leave the State with said negro slaves as aforesaid. May it please your honor, the premises considered, to grant to your orators the State's writ of ne exeat, to the said James A. Witherspoon to be directed, commanding and strictly enjoining him not to remove said negro slaves in the original and amended bills mentioned beyond the limits thereof of the State of Mississippi aforesaid, until the matters and things above alleged and contained in said bills shall have been heard and finally determined in this honorable court.

And, as in duty bound, your orators will ever pray, &c.

J. T. McMURRAN,
Solicitor for complainants.

STATE OF MISSISSIPPI, *Adams county, ss.*

Personally appeared before the undersigned, justice of the peace, Richard Bein and James C. Hawley, two of the complainants, who being duly sworn, say that the facts as above set forth are true, to the best of their knowledge and belief.

R. BEIN,
J. C. HAWLEY.

Sworn to before me, 20th November, 1828.

H. TOOLEY, *J. P.*

Let a ne exeat issue according to the prayer of the foregoing bill, to be discharged on the defendant entering into bond in the penal sum of six thousand dollars, with good and sufficient security, to abide by the decree which may be made in the premises.

E. TURNER,
Judge 2d judicial district.

To the clerk of the superior court of chancery, western district.

November 20th, 1828.

THE STATE OF MISSISSIPPI, *western district.*

Superior court of chancery, to the sheriff of Franklin county, greeting:

Whereas it is represented to us, in our superior court of chancery for the western district, in a supplemental bill of revivor and petition on the part of Robert Anderson and Amy, his wife, Richard Bein and Matilda, his wife, James C. Hawley, Eliza Hawley, daughter and only heir of James C. Hawley and Susannah, his wife, now deceased, by her next friend, the said James C. Hawley, and Adeliza Pickett, daughter of said Amy by her first husband, now deceased, by her guardian, Robert Anderson, complainant, and James A. Witherspoon,

defendant; (among other things,) the said James A. Witherspoon, the co-defendant of one James Brown in the original bill of complaint exhibited by said complainants and others against them in our said court, is about leaving the State of Mississippi, and carrying with him the negro slaves and their increase mentioned in said original bill, to wit: Captain, Milly and child Limbreck, Sylvester, Grace, Maria and child Henry, Diamond, Luce, Jim, Sylvia, old Pen, Harry, Juno, Esther, Patsey, Cynthia, Green, Lynda, Cloe, George, Mack, Amos, and Charlotte, which would tend *and* to the great prejudice and damage of the said complainants.

Therefore, to prevent the injustice, we do hereby command you that you do, without delay, cause the said James A. Witherspoon presently to come before you and give sufficient bail or security in the penal sum of six thousand dollars, conditional to abide by such order or decree as shall be made in the premises. And in case the said James A. Witherspoon shall fail or refuse to give such bail or security, then you are to commit him, the said James A. Witherspoon, to the prison of our said county of Franklin, there to be kept in safe custody until he shall do it of his own accord, or be liberated therefrom by due course of law. And when you shall have taken such security, you are forthwith to make and return a certificate thereof to our said superior court of chancery for the western district, plainly and distinctly, under your hand and seal, together with this writ.

Witness the honorable Joshua G. Clarke, chancellor of the State of Mississippi, at a superior court of chancery for the western district, held in the court-house in the city of Natchez, on the second [L. S.] Monday in July, in the year of our Lord one thousand eight hundred and twenty-eight, and the 53d year of American independence.

JAS. A. GIRAULT, *Clerk*.

Issued the 21st day of November, 1828.

The sheriff of Franklin county will hold the within named defendant, James A. Witherspoon, to bail in the sum of six thousand dollars, with good and sufficient security, conditioned to abide by the decree which may be made in the premises.

JAS. A. GIRAULT, *Clerk*.

November 21st, 1828.

Served this writ on the within named Jas. A. Witherspoon, and held him to bail with Solomon Newman, security, December 17th, 1828.

D. H. McINTYRE, *Sheriff*.

Received 24th November, 1828.

D. H. McINTYRE, *Sheriff*.

STATE OF MISSISSIPPI,
Franklin county.

Know all men by these presents, that we, James A. Witherspoon and Solomon Newman, of the county and State aforesaid, are held and

firmly bound unto D. H. McIntyre, sheriff of the county aforesaid, in the just and full sum of six thousand dollars, good and lawful money; the payment of which sum, well and truly to be made, we bind ourselves and each of us, our heirs, executors, and administrators, jointly and severally, firmly by these presents; and sealed with our seals this 17th day of December, 1828.

The condition of the above obligation is such, that whereas a writ of ne exeat hath issued from the clerk's office of the superior court of chancery, for the western district, on the 21st November, 1828, on the petition of Robert Anderson and Amy, his wife, Richard Bein and Matilda, his wife, James C. Hawley, Eliza Hawley, and only heir of James C. Hawley and Susannah, his wife, now deceased, by her next friend said James C. Hawley, and Adeliza Pickett, daughter of said Amy by her first husband, now deceased, by her guardian Robert Anderson, on a supplemental bill [of] complainants against the above James A. Witherspoon, the co-defendant of one James Brown in the original bill of complaint. Now, if the said above bound James A. Witherspoon shall have the following negro slaves, to wit, Mariah and child, Clier and her child, Jim, Grace, Silva, Juno, Patsy, and Penn, and Captain, (who is now run away in the woods, and if got, to be bond for him,) forthcoming on the decision of the court, and shall abide by the decision of the court, and shall pay and satisfy the condemnation of the court, or on failure thereof that the said Solomon Newman shall do it for him, then in this case the above obligation to be void, otherwise to remain in full force and virtue in law.

JAMES A. WITHERSPOON, [SEAL.]
SOLOMON NEWMAN. [SEAL.]

Signed, sealed, and acknowledged in the presence of—
D. H. McINTYRE, *Sheriff*.

STATE OF MISSISSIPPI,
Franklin county.

Personally came and appeared before me, Jonathan Russell, a justice of the peace in and for the county aforesaid, James A. Witherspoon, one of the obligors to the annexed bond, and made oath that the following slaves are the only property which he, this deponent, got from James Brown, and are in his, this deponent's, possession in this State, from the first of September, 1828, to this date, to wit, Maria and her child, Cahable and her child, Jim, Grace, Sophia, Juno, Patsy, and Penn.

JAMES A. WITHERSPOON.

Sworn and subscribed before me this 17th day of December, 1828.
JON. RUSSELL, *J. P.* [SEAL.]

I, D. H. McIntyre, sheriff of Franklin county, do hereby assign the above obligation and condition to Robert Anderson and Amy, his wife, Richard Bein and Matilda, his wife, James C. Hawley and Adeliza Pickett and Eliza Hawley, to be sued for according to the statutes in such case made and provided.

In witness whereof I have hereunto set my hand and seal this 17th December, 1828.

D. H. McINTYRE, *Sheriff*.

And afterwards, to wit, at the January term, 1829, of said court, the chancellor having been concerned in this cause as counsel, deems it improper and is unwilling to preside on the trial of the same.

It is therefore ordered that the same be removed to the supreme court for further proceedings thereon.

And afterwards, to wit, by virtue of an act of the legislature of the State of Mississippi, approved March, 1833, this cause was removed into the court first above named.

STATE OF MISSISSIPPI, *Franklin county*.

Know all men by these presents, that I, James Brown, of the county and State aforesaid, have made, constituted, and appointed, and by these presents do make, constitute, and appoint, James A. Witherspoon, of the county and State aforesaid, my true and lawful attorney, irrevocable, for me and in my name, but to the sole use of him, the said James A. Witherspoon, to prosecute and defend all suits, either at law or in equity, that are now pending or may hereafter be instituted, relative to the estate of Nathan King, deceased, in any manner whatever, and to sue and be sued on part and behalf of the said James Brown; also to ask, demand, and receive, and for the sole use and benefit of him, the said James A. Witherspoon, all the personal estate which I, the said James Brown, got by my late deceased wife Eliza, to wit, Green, Milly and her child Venus, Amps, Diamond, Luce, Jim, Grace, Captain, Maria and her two children Henry and Mary, Harry, Esther, Mack, George, Juno, Patsy, Linda, Cheir and her two children Jackson and Bartlett, Penny, Sylvia, and Cinthia; also the following described personal property, to wit:

Two yoke of oxen, also twenty-five head of cattle, more or less, marked with a swallow fork in one ear, and a cross and half cross in the other, also three head of horses, and three head of mules, one wagon, also my household and kitchen furniture, and farming utensils of every description; to sue for, defend, and recover the above described slaves and personal property, in my name, and for the use of the said James A. Witherspoon; giving, and by these presents granting, to the said James A. Witherspoon, my full power and authority, in my name, place, and stead, to do all and every act and acts, thing and things, devise and devises, in law or in equity, whatsoever, for the recovery of the above described slaves and personal property, as fully, to all intents and purposes, as I myself might or could do; and upon the receipt thereof acquittances or other discharges for me and in my name to make, seal, and execute; hereby ratifying, confirming, and allowing whatsoever my said attorney shall lawfully do or cause to be done in or about the premises.

In witness whereof I have hereunto set my hand and affixed my seal, this 30th day of October, 1825.

JAMES BROWN. [SEAL.]

Signed, sealed, and delivered in the presence of—
EPHRAIM G. PEYTON.

STATE OF MISSISSIPPI,
Franklin county.

This day personally appeared before me the undersigned, justice of the peace in and for said county, the within named James Brown, who acknowledged that he signed, sealed, and delivered the within letter of attorney on the day and year therein mentioned as his act and deed, and for the purposes therein mentioned.

Given under my hand and seal this 3d day of October, 1825.

JAMES BROWN.
LEWIS SWAYZEE, *J. P.* [SEAL.]

STATE OF MISSISSIPPI,
Franklin county.

I, Jonathan Russell, clerk of the county and probate court of said county, do hereby certify the foregoing to be a true copy of the original as recorded in my office.

Given under my hand and seal of office, this 17th day of August, A. D. 1826.

[L. S.]

JONA. RUSSELL, *Clerk.*

STATE OF MISSISSIPPI,
Franklin county.

The State of Mississippi, to the sheriff of Franklin county, greeting:

We command you, as we have heretofore commanded you, that of the goods, chattels, lands, and tenements of Bartlett Ford, executor, and Richard Bein, late of your county, you cause to be made the sum of six thousand and twenty-six $\frac{29}{100}$ dollars, which the heirs of John King, deceased, lately in our circuit court, have recovered against them for debt; also the sum of four hundred and ninety and $\frac{12}{100}$ dollars, which to the said heirs of John King, deceased, in the same court, were adjudged for their damages, by reason of the detention of the said debt, with interest on the said sums at eight per cent. per annum from the 12th day of October, 1825, until paid; and the sum of nineteen and 87½-100 dollars, for cost by him about his suit in that behalf expended, whereof the said Bartlett Ford, administrator as aforesaid, Richard Bien and Robert Anderson, convicted as appears to us of record; and that you have said moneys before the judges of the State aforesaid, at a circuit court to be holden at the court-house in and for the county of Franklin, on the second Monday of October next, to render to the said heirs for their debt, damages, and costs aforesaid. And have then there this writ.

Witness the honorable Edward Turner, presiding judge of
[L. S.] the second judicial district of the State aforesaid, at a circuit court, holden at the court-house in and for said county on the

second Monday in April, in the year of our Lord eighteen hundred and 26, and in the 50th year of the independence of the United States of America.

JAS. A. WITHERSPOON, *Clk.*

Issued 1st day of May, 1826.

Levied, 25th July, on the following negroes, to wit, Green, Charlotte, Ann, Tom, Jacob, Little Jacob, Mariah, and Mary, taken as the property of B. Ford, advertised for 3d Monday in August. The property not delivered to me that was executed in this writ of execution.

D. H. McINTYRE, *Sh'ff.*

Judgment on award, October term, 1824.

Debt - - - - -	$6,126 59	
Damages - - - - -	490 12½	
		$6,616 71½
Clerk - - - - -	$7 62½	
Execution - - - - -	75	
		$8 37½
Juror, $2 - - - - -	-	2 00
Sheriff Cain, $4.50 - - - - -	-	4 50
Attorney McGee, $5 - - - - -	-	5 00
		$19 87½

No security to be taken of any kind on this execution.

JAS. A. WITHERSPOON, *Clk.*

This execution is entitled to a credit of six hundred dollars, as per sheriff. The above credit of six hundred dollars was received of R. Bein, administrator of the estate of John Pickett, deceased, at April term 1826.

JAS. A. WITHERSPOON, *Clk.*

D. P. CAIN, *Sh'ff.*

I certify that the above is a true copy of the writ of execution issued on the judgment in the foregoing case, together with the return and credits thereon.

Given under my hand and seal of office, this 24th day of June, 1828.

J. A. WITHERSPOON, *Clk.*

Know all men by these presents, that we, Bartlett Ford, executor of Nathan , deceased, R. Bein, of Franklin county, Mississippi state, are held and firmly bound unto the heirs of John King, deceased, in the full and just sum of twelve thousand three hundred and forty-three dollars $\frac{58}{100}$; the payment of which, well and truly to be made, we bind ourselves and each of us, our heirs, administrators, executors, and assigns, jointly and severally, firmly by these presents. Sealed with our seals and dated this ninth day of February, 1825.

The conditions of the above obligations are such, that whereas the heirs of John King, deceased, of said county and State, sued out of the circuit court of Franklin county a writ of fieri facias against the goods and chattels, lands and tenements, of Bartlett Ford, executor of Nathan 's estate, for the sum of six thousand on: hundred and twenty-six dollars and $\frac{75}{100}$, which said writ of fieri facias was this day levied on certain negroes, to wit: Arthur, Coatney, Harriet, Cooper, Rachel, Burnell, Hannah, Little Dian, [and] Mary, taken in execution as the property of the defendants to satisfy the heirs of John King, deceased, of this judgment, and costs according to the statute in such case made and provided, which said property is suffered to remain in possession of the above bounden B. Ford, executor as aforesaid, upon his executing this bond: Now, if the above bound B. Ford, executor, &c., shall deliver to D. P. Cain, sheriff of Franklin county, the above named property on the third Monday in March next, by 12 o'clock, noon, of said day, to be disposed of according to law, to satisfy the above named suit and costs, then and in that case the above obligation to be null and void; otherwise to remain in full force and virtue.

B. FORD, *exc'r of J. King.* [SEAL.]
R. BEIN, [SEAL.]
RD. ANDERSON. [SEAL.]

Signed and sealed in the presence of—
D. P. CAIN, *Sh'ff.*

I certify the within bond to be a true copy of the bond in the above case, as filed in my office.

[L. S.] Given under my hand and seal of office this 24th November, 1828.

J. A. WITHERSPOON, *Clerk.*

STATE OF MISSISSIPPI, *Franklin county.*

Know all men by these presents that I, James Brown, of the county and State aforesaid, for and in consideration of the sum of seven thousand dollars, to me in hand paid before the sealing and delivery of these presents, by James A. Witherspoon, of the county and State aforesaid, the receipt whereof is hereby acknowledged, have this day bargained, sold, and delivered unto the said James A. Witherspoon the following negro slaves, to wit, for life, that is to say: Green, Milly and her child, named Venus, Amps, Diamond, Luce, Jim, Grace, Captain, Maria and her two children, (to wit,) Henry and Mary, Harry, Esther, Mack, George, Juno, Patsy, Linda, Clio and her two children, to wit, Jackson and Bartlett, Penney, Silvia, and Cinthia. Also the following described personal property, to wit, two yoke of oxen; also twenty-five head of cattle, marked in a swallow fork in one ear and a cross and half cross in the other; also three head of horses and three head of mules, one wagon; also all my household and kitchen furniture, and farming utensils of every description; to have and to hold the aforementioned negroes, with their issue, unto the said James A. Witherspoon, his heirs and assigns forever; also, to have and to hold the

aforementioned other property unto the said James A. Witherspoon, his heirs and assigns forever.

And I, the said James Brown, for the consideration aforesaid, will warrant and defend the same from myself, my heirs, executors, and administrators, or any person or persons claiming under me, either at law or in equity.

In testimony whereof I have hereunto set my hand and affixed my seal, this first day of October, in the year of our Lord 1825.

(Signed) JAMES BROWN. [SEAL.]

Signed, sealed, and delivered in presence of—
EPHRAIM G. PEYTON.

STATE OF MISSISSIPPI, *Franklin county.*

This day personally appeared before me, the undersigned, justice of the peace in and for the county aforesaid, the within named James Brown, who acknowledged that he signed, sealed, and delivered the within bill of sale, on the day and year therein mentioned, as his act and deed.

(Signed) JAMES BROWN.

Given under my hand and seal, this 3d day of October, 1825.
LEWIS MAGEE, *J. P.* [SEAL.]

STATE OF MISSISSIPPI, *Franklin county.*

I, Jonathan Russell, clerk of the county and probate courts of said county, certify the foregoing to be a true copy of the original, as recorded in my office.

Given under my hand and seal of office, this 17th day of August, A. D. 1826. JONA. RUSSELL, *Clerk.*

This record was crossed at the instance of the parties some time after it was made. J. R., *Clerk.*

STATE OF MISSISSIPPI, *Franklin county.*

Know all men by these presents that I, James Brown, of the county and State aforesaid, for and in consideration of the sum of seven thousand dollars, to me in hand paid, before the sealing and delivering of these presents, by James A. Witherspoon, of the county and State aforesaid, the receipt whereof is hereby acknowledged, have this day bargained, sold, and delivered, unto the said James A. Witherspoon, the following negro slaves, (to wit,) for life, that is to say: Green, Milly and her child, named Venus, Amps, Diamond, Luce, Jim, Grace, Captain, Maria and her two children, to wit, Henry and Mary; Harry, Esther, Mack, George, Juno, Patsey, Linaer, Clier and her two children, (to wit,) Jackson and Bartlett; Penny, Sylvia, and Cynthia.

Also the following described personal property, (to wit,) two yoke of oxen; also twenty-five head of cattle, marked in a swallow fork in one ear, and a cross and half a cross in the other; also three head of horses and three head of mules, one wagon; also my household and kitchen furniture, and farming utensils of whatever description.

To have and to hold the aforementioned negroes with their issue, unto the said James A. Witherspoon, his heirs and assigns, forever.

Also to have and to hold the aforementioned other property unto the said James A. Witherspoon, his heirs and assigns, forever.

And I, the said James Brown, for the consideration aforesaid, will warrant and defend the same against myself, my heirs, executors, and administrators, or any person or persons claiming under me, either at law or in equity.

In testimony whereof I have hereunto set my hand and affixed my seal, this 1st day of October, in the year of our Lord 1825.

JAMES BROWN. [SEAL.]

Signed, sealed, and delivered in the presence of—
EPHRAIM G. PEYTON.

STATE OF MISSISSIPPI, *Franklin county.*

This day personally appeared before me, the undersigned, justice of the peace in and for the county aforesaid, the within James Brown, who acknowledged that he signed, sealed, and delivered the within bill of sale on the day and year therein mentioned as his act and deed.

Given under my hand and seal this 3d of October, 1825.

JAMES BROWN.
LOUIS MAGEE, *J. P.* [SEAL.]

Recorded October 27th, 1825.

JONA. RUSSELL, *Clerk.*

STATE OF MISSISSIPPI, *Franklin county.*

I, Jonathan Russell, clerk of the county and probate court of said county, do hereby certify, that the foregoing is a true copy of the original bill of sale executed by James Brown to James A. Witherspoon, as erased and recorded by me at the special request of the said Brown and Witherspoon, and in their presence.

Given under my hand and seal of office, this 9th day of July, 1828.

[L. S.]

JONA. RUSSELL, *Clerk.*

One day after date I promise to pay Bartlett Ford, (guardian for Matilda and Susan King,) one thousand and ninety-one dollars and two cents for value received. May 27, 1823.

(Copy) ELIZA KING.

Ten days after date I promise to pay Bartlett Ford, guardian for Matilda and Susan King, one hundred and fifty-six dollars and 10 cts., for value received. July 12th, 1823.

(Copy) ELIZA KING.
Test: JONA. PUCKETT.

STATE OF MISSISSIPPI, *Franklin county.*

The State of Mississippi, to the sheriff of Franklin county, greeting.

We command you, as we have oftentimes commanded you, that of the goods, chattels, lands, and tenements of Bartlett Ford, executor, and Richard Bein, late of your county, you cause to be made the sum

of six thousand one hundred and twenty-six $\frac{59}{100}$ dollars, which the heirs of John King, deceased, lately in our circuit court have recovered against them for debt: also the sum of four hundred and ninety and $\frac{12}{100}$ dollars, which to the heirs of said John King, deceased, in the same court were adjudged for their damages by reason of the detention of the said debt, with interest on the said sum at eight per centum per annum, from the 12th day of October, 1825, until paid, and the sum of twenty-one $\frac{12}{100}$ dollars, for costs by them about their suit in that behalf expended; whereof the said Bartlett and Richard is convicted, as appears to us of record; and that you have the said moneys before the judges of the State aforesaid, at a circuit court to be holden at the court-house in and for the county of Franklin, on the second Monday of April next, to render to the said heirs for their debt, damage, and costs aforesaid; and have then there this writ.

Witness the honorable Edward Turner, presiding judge of the second judicial district of the State aforesaid, at a circuit court to be holden at the court-house in and for said county, on the second [L. S.] Monday in October, in the year of our Lord eighteen hundred and twenty-six, and in the 51st year of the independence of the United States of America.

Issued 16th day of November, 1826.

JAS. A. WITHERSPOON, *Clerk*.

Levied March the 7th, 1827, on the following negroes, to wit, Charles, *Grace*, Delpha, Mary, Caty. Sale to be 3d Monday in March instant.

D. H. McINTYRE, *Sheriff*.

Received March 19th, 1827, $848 73.

D. H. McINTYRE, *Sheriff*.

Judgment on award, October term, 1824.

Debt - - - - -	$6,126 59	
Damages - - - -	490 12	
		6,616 71
Clerk - - - - -	8 37½	
Execution - - - -	75	
		9 12½
Juror - - - - -	2 00	2 00
Sheriff Cain - - - -	5 00	5 00
Attorney Magee - - - -	5 00	5 00
		$21 12½

In security to be taken on this execution.

JAS. A. WITHERSPOON, *Clerk*.

This execution is entitled to a credit of six hundred dollars as per Sheriff Cain.

JAS. A. WITHERSPOON, *Clerk*.

October the 14th, 1824,	$309 83 cts.	paid Eugene Magee, attorney.
January 8th, 1825,	763 66	paid to Moses King.
January 10th, 1825,	118 00	paid to Moses King.
February 14th, 1825,	203 50	paid to Moses King.
April 10th, 1826,	1,004 06	paid to Michael King.

April	11th, 1826,	485 34	paid to Michael King, guardian.
April	13th, 1826,	435 91	paid to sheriff Cain.
October	10th, 1826,	724 00	paid to Michael King, guardian.
July	27th, 1827,	200 00	paid to Michael King, guardian.
March	19th, 1827,	20 00	paid to Michael King, guardian.
		$4.264 30	

These credits are taken from a receipt signed by Michael King in the hands of R. Bein.

WEBBER, *Attorney*.

I certify the above to be a correct copy of the above stated execution, together with the returns and credits thereon. Given under my hand and seal of office, this 24th June, 1828.

[L. S.]

JAS. A. WITHERSPOON, *Clerk*.

Received June 28th, 1836. Stayed by order of plaintiffs.

D. H. McINTYRE.

SUPERIOR COURT OF CHANCERY, *western district*.

The State of Mississippi, to Jonathan Russell, esquire, greeting.

Know ye, that trusting to your fidelity and provident circumspection in diligently examining Dempsey P. Cain, witness, in a certain action depending in the court aforesaid, wherein Bartlett Ford and others are complainants, and James Brown and others are defendants, you are requested on the 6th day of October next, you call and cause the said witness to come before you, and being diligently examined on oath, and his examination into the court aforesaid you distinctly and plainly set, together with this writ enclosed.

Witness the honorable Joshua G. Clarke, chancellor of the State aforesaid, who has caused the seal of the court aforesaid to be hereunto annexed, at the court-house of Adams county, on the second Monday in July, in the year of our Lord one thousand eight hundred and twenty-eight, and in the 53d year of the independence of the United States of America.

[L. S.]

JAS. A. GIRAULT, *Clerk*.

Issued the 24th day of September, 1828.

B. FORD et al.
vs.
JAMES BROWN et al.
} In chancery.

To the defendants or their attorneys:

GENTLEMEN: You will please take notice, that, on the 6th day of October next, between the hours of nine o'clock, a. m., and five o'clock, p. m., of that day, at the office of Jonathan Russell, esq., in Meadville, and before him, we shall proceed to take the testimony of Dempsey P. Cain, to be read in evidence upon the hearing of said cause, when and where you can attend and cross examine if you think proper.

Yours, &c.,

B. FORD et al.,
By QUITMAN & McMURRAN,
Compl'ts solicitors.

Sept. 24, 1828.

Received a copy of the above.
Sept. 25th, 1828. SPRAGUE.

STATE OF MISSISSIPPI, *Franklin county.*

BARTLETT FORD et al.
vs.
JAMES BROWN et al. } In chancery, western district.

In obedience to the requisitions of the annexed commission, and in compliance with the provisions of the statute of the State aforesaid, in such cases made and provided, I have caused Dempsey P. Cain, a witness in the above case on the part and behalf of the said complainants, to come before me, at my office in Meadville, this 6th day of October, 1828, between the hours of nine o'clock in the forenoon and five o'clock in the afternoon of said day, who, after having first been duly sworn according to law, deposeth and saith, (to wit,) that he is (or was) acquainted with the parties to the above suit; that he, as late sheriff of the county of Franklin, a short time before his term of office expired, had an execution in favor of the heirs of John King, deceased, against Bartlett Ford, executor of Nathan King, deceased, and others. That, in a conversation with James A. Witherspoon, who seemed to have the control of the execution above alluded to, he (the said Witherspoon) very earnestly requested him (this deponent) to make a levy soon; when deponent observed that he would do so, and should commence by levying upon the property of Robert Anderson, one of the defendants in the execution. Whereupon the said Witherspoon requested deponent not to levy upon the property of said Robert Anderson, but to levy upon the property of the other defendants; when deponent answered or replied, that if he made a levy he should make it upon the property of all the defendants equally. That the said James A. Witherspoon then took the execution above alluded to, and erased or struck out the name of the said Robert Anderson from the said execution.

This deponent further states that he, as guardian of the minor heirs of James Cain, deceased, obtained a judgment against Bartlett Ford, executor of Nathan King, deceased, in the circuit court of Franklin county, for the sum of about five thousand dollars, or upwards; and that he (deponent) received the sum of fourteen hundred dollars, as the aforesaid judgment, on the fourteenth day of May, eighteen hundred and twenty-five, from Richard Bein and James C. Hawley, the said sum being James Brown's proportional part of the said judgment, and that the other heirs of Nathan King had previously paid their proportions of the said judgment.

Deponent further states, that an execution was issued on the above judgment previous to the time it was settled, and placed in the hands of the coroner; the coroner, together with deponent, went to the house of Bartlett Ford and James Brown for the purpose of taking a forthcoming bond, when the said Ford executed a forthcoming bond for three-fourths of the amount of the aforesaid judgment. That the said James Brown executed a forthcoming bond for the one-fourth part of the amount of the aforesaid judgment; that the said Brown, at the time

of executing the above bond, objected to the same, saying that it would make him, the said Brown, liable for the whole debt; on which the said Bartlett Ford offered, that if he, the said Brown, would execute a refunding bond for the payment of his, said Brown's, proportional part of the debt of the estate of Nathan King, that he, the said Bartlett Ford, would not require him, said Brown, to join in a forthcoming bond.

Deponent further states, that Bartlett Ford, Richard Bein, and James C. Hawley, always showed a disposition to indulge the said James Brown, and only required him, the said Brown, to pay his proportional part of the debts of the estate of Nathan King, and offered to give the said Brown a bond to indemnify him against any injury he, the said Brown, might sustain by giving a refunding bond.

This deponent further states, that he was the sole agent of Eliza King, (widow of Nathan King, deceased,) in employing counsel for the petitioning to the chancery court for her dower, and that he, deponent, transacted all the business of her, the said Eliza King, relative to the obtaining the said dower; that he never did, as her agent, give the executor of Nathan King notice of said petition, nor does he know or believe that any such notice was ever given.

D. P. CAIN.

Taking deposition and certificate $1 75.

STATE OF MISSISSIPPI, *Franklin county.*

I, Jonathan Russell, one of the commissioners in the superior court of chancery, western district of the State aforesaid, for taking depositions in and for the county of Franklin, do hereby certify, that the foregoing deposition of Dempsey P. Cain was taken by and before me, at the time and place first written, he having been first duly sworn according to law; also, that the above bill of costs is correct.

Given under my hand and seal, this 6th day of October, 1828.

JON. RUSSELL, *Com'r.* [L. S.]

SUPERIOR COURT OF CHANCERY, *Western district.*

The State of Mississippi to Jonathan Russell, esq., one of the commissioners in chancery for taking depositions in the county of Franklin, greeting:

Know ye, that trusting to your fidelity and provident circumspection in diligently examining Reuben S. Gibson, Duncan H. McIntyre, and Dempsey P. Cain, witnesses in a certain action depending in the court aforesaid, wherein Bartlett Ford and others are complainants, and James Brown and others are defendants, you are requested, at such days and places as you shall appoint, you call and cause the said witnesses to come before you, and them diligently examine on oath on the part of the said complainants; and their examination into the court aforesaid you distinctly and plainly set, together with this writ enclosed.

Witness the honorable Joshua G. Clarke, chancellor of the State aforesaid, who has caused the seal of the court to be hereunto affixed, at the court-house of Adams county, the second Mon-

[L. S.] day in January, in the year of our Lord one thousand eight hundred and twenty-eight, and in the 52d year of the independence of the United States of America.

JAS. A. GIRAULT, *Clerk.*

Issued the 13th day of June, 1838.

BARTLETT FORD et al., complainants,
vs.
JAMES BROWN et al., defendants.

In the court of chancery for the western district.

To the defendants or their attorneys:

Take notice that, on Tuesday, the 20th inst., at the office of Jonathan Russell, commissioner, in the town of Meadville, Franklin county, we will proceed before said Russell to take the testimony of Reuben G. Gibson, and D. H. McIntyre, and D. P. Cain, to be read in evidence in the hearing of said cause, when and where you may attend if you think fit.

QUITMAN & McMURRAN,
Compl'ts solicitors.

NATCHEZ, *June 13th*, 1828.

Received a copy in due time. June 13th, 1828.

RO. H. ADAMS,
Per BROWN.

STATE OF MISSISSIPPI, *Franklin county.*

BARTLETT FORD et al.
vs.
JAMES BROWN et al.

In chancery, western district.

In obedience to the requisitions of the annexed commission, and in conformity with the provisions of the statute of the State aforesaid, in such case made and provided, I have caused Reuben G. Gibson and Duncan H. McIntyre, witnesses in the above named case on the part and behalf of the said complainants, to come before me, at my office in Meadville, on this twenty-fourth day of June, eighteen hundred and twenty-eight, between the hours of ten o'clock in the forenoon and four o'clock in the afternoon of said day, who, after having first been duly sworn agreeably to law, say, to wit:

Reuben G. Gibson states, that he is or was acquainted with the parties to the above named suit. This deponent further states that, some time in the month of July, 1826, he was present at a conversation between James Brown and James A. Witherspoon, (the defendants in the suit;) that he understood from them both, at the time, that the said Brown had previously transferred or sold to the said Witherspoon certain negroes, together with some other personal property; all of which he, the said Brown, had acquired by his late wife, Eliza Brown, (formerly Eliza King, widow of Nathan King, deceased;) that, at or about

the time of the conversation aforesaid, the said James A. Witherspoon paid to the said James Brown a certain amount of money, somewhere between five and eight hundred dollars; the precise amount this deponent does not now recollect; that the said James Brown at the time requested this deponent to bear witness of the payment of the said money to him by the said James A. Witherspoon; that, at that time, this deponent understood from the said Brown that the said sum of money so paid was in payment, or part payment, of the said negroes and personal property so transferred from the said Brown to the said Witherspoon, as aforesaid.

This deponent further states, that at the same time he distinctly understood from the said James Brown that the transfer of the aforesaid property was fraudulent and was intended to evade a recovery of his (Brown's) proportion of the debts of the estate of Nathan King, deceased; that the said Brown distinctly stated to this deponent that the said sum of money, so paid by said Witherspoon to him, the said Brown, as aforesaid, was not a bona fide payment, but that the said money belonged to him, the said Brown, previous to the payment of the same by the said Witherspoon; and that it was merely handed to the said Witherspoon by him (Brown) to be paid in the presence of witnesses, in order to induce a belief that there had been an absolute sale of said property to said Witherspoon.

This deponent further states that, some time previous to the transfer of the said property to the said Witherspoon, the said James Brown applied to him, (this deponent,) and solicited him to receive a transfer of said property, which said transfer he, Brown, wished the world to believe was an absolute sale to him, (this deponent.) The said Brown at that time stated to this deponent that his object in wishing to make this transfer was to prevent a recovery of his (Brown's) proportion of the debts of the estate of Nathan King, deceased, believing, as he said, that under such a transfer the property could not be liable in the hands of a third person; and that, in the event of a decree in chancery in his (Brown's) favor, he was to have the property back again, but if there should be a decree against him, the property was to remain in the hands of this deponent, and be managed for the use and benefit of him, the said Brown; which proposition this deponent states he indignantly rejected, because he believed the intention fraudulent.

This deponent further states, that the said James Brown always professed a readiness or willingness to come to a fair and amicable settlement with the heirs and executor of Nathan King, deceased; that he, the said Brown, made several appointments to meet for that purpose; that the executor and heirs of Nathan King, deceased, were always ready, and met according to appointment, but that the said Brown himself never would attend.

R. G. GIBSON.

Deposition of Duncan H. McIntyre.

Duncan H. McIntyre states, that he is or was acquainted with the parties in this suit; that he, as sheriff of Franklin county, held an exe-

cution in his hands, in favor of the heirs of John King, deceased, against Bartlett Ford, executor of Nathan King, deceased; that Michael King, one of the heirs of the said John King, deceased, and guardian to several of the minor heirs of said John King, deceased, told this deponent that Richard Bein, one of the heirs of Nathan King, deceased, had paid him several sums of money, which said sums were to be credited on said execution; and agreeable to those instructions, he credited the several sums so paid on the said execution, amounting in all to four thousand two hundred and sixty-four dollars and thirty cents, without interest; that, on the nineteenth of March, eighteen hundred and twenty-seven, the said Richard Bein paid to this deponent, as sheriff as aforesaid, the sum of eight hundred and forty-eight dollars and seventy-three cents in cash; that the balance of the said execution was satisfied by John P. Smith for Robert Anderson.

This deponent further states, that he, as sheriff as aforesaid, held in his hands an execution in favor of C. D. Springer, administrator, against Bartlett Ford, executor of Nathan King, deceased, amounting to the sum of three hundred and thirty-four dollars, or thereabouts, which execution was returnable to the April term, 1827, of Franklin circuit court; that the owner of said execution directed him, as sheriff as aforesaid, to return said execution satisfied, it having been paid, as he said, by Richard Bein.

And this deponent further states, that the said Richard Bein paid all the costs on the two aforesaid executions, amounting in all to about sixty-two dollars.

D. H. McINTYRE.

Fee bill.

Commissioner issuing 3 spas. for witnesses - -	$1 12½	
Commissioner swearing 2 witnesses - - -	12½	
Commissioner's certificates to 2 witnesses - -	25	
Commissioner taking depositions - - -	2 40	
Commissioner's certificate - - - -	25	
		$4 15
Constable Porter serving 2 spas. - - - -		75
Witness, R. G. Gibson, 1 day, 6 miles - - -		1 86
Witness, D. H. McIntyre, 1 day - - - -		1 50
		$8 26

STATE OF MISSISSIPPI, *Franklin county.*

I, Jonathan Russell, one of the commissioners in the superior court of chancery, western district of the State aforesaid, for taking depositions in and for the county aforesaid, do certify, that the foregoing depositions were taken by and before me, at the time and place first written; that the said witnesses were first duly sworn; that the said Dempsey P. Cain was not found in my county, as appears from the officer's return; and that the above bill of costs is correct.

Given under my hand and seal, this 24th day of June, 1828.

JON. RUSSELL, *Com'r.* [SEAL.]

And afterwards, to wit, at a court aforesaid, continued and held this 11th day of January, 1837, it is ordered that this cause be abated for want of parties.

Superior court of chancery of the State of Mississippi.

I, Richard L. Dixon, clerk of the court aforesaid, do hereby certify, that the foregoing ninety-two pages contain a correct and complete transcript of the record of the cause named therein on the first page.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the court, at the Capitol in Jackson, the 30th day of March, 1841.

[L. S.]

Attest: R. L. DIXON, *Clerk*.

I, Robert H. Buckner, chancellor of the State of Mississippi, do hereby certify, that Richard L. Dixon, whose name is affixed to the foregoing certificate as clerk of the superior court of chancery of the State aforesaid, is clerk of said court, and was at the date of the same; that his attestation is in due form of law, and that all his official acts are entitled to full faith and credit.

Given under my hand at Chambers, in Clinton, the 2d day of April, 1841.

RO. H. BUCKNER.

I, Edmund Randolph, clerk of the circuit court of the United States, in and for the fifth circuit and eastern district of Louisiana, do hereby certify that the foregoing one hundred and thirty-nine pages [is] a faithful, true, and complete transcript of the record and proceeding in the case of Jas. Brown vs. J. B. Bond, administrator, No. 1696 of the docket of this court, so far as the same now remain on file of record in this office, together with the transcripts of records in the cases of Jas. Brown vs. Jas. C. Cain et al., and B. Ford et al. vs. Jas. Brown et al., adduced in evidence of the trial of the above entitled cause.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at New Orleans, this 24th day of September, 1849.

[SEAL.]

EDMUND RANDOLPH,
Per J. W. GURLEY, *D'y Clerk*.

UNITED STATES OF AMERICA.

Circuit court of the United States, for the fifth circuit and eastern district of Louisiana.

I, Theodore H. McCaleb, United States judge for the eastern district of Louisiana, do hereby certify, that Edmund Randolph, whose name is signed to the above certificate, as clerk of the circuit court of the United States for the eastern district of Louisiana, was at the time of signing said certificate, and is now, the clerk of said court; that said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

I further certify, that J. W. Gurley, who signed said Edmund Ran-

dolph's name as clerk, was, at the time of signing the same, the duly appointed and qualified deputy clerk of said Edmund Randolph.

Given under my hand and seal, at New Orleans, in the eastern district of Louisiana, this 24th day of September, A. D. 1849.

THEO. H. McCALEB. [SEAL.]

JAMES BROWN
vs.
JOSHUA B. BOND, administrator, } Writ of error.

UNITED STATES OF AMERICA, *ss.*

The President of the United States to the honorable the judges of the circuit court of the United States in and for the 5th circuit, and holding sessions for the eastern district of Louisiana, greeting:

Because, in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said circuit court, before you, or some of you, between James Brown and Joshua B. Bond, administrator of the estate of Mary Ann Cade, a manifest error hath happened, to the great damage of the said Joshua B Bond, administrator, &c., as by his complaint appears; we being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, in the said Supreme Court, to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein, to correct that error, what of right, and according to the laws and customs of the United States, should be done.

Witness the honorable Roger B. Taney, chief justice of the said Supreme Court of the United States, this 26th of June, in the year of our Lord one thousand eight hundred and forty-nine. [SEAL.]

ED. RANDOLPH,
Clerk U. S. circuit court east. dist. of Louisiana,
Per J. W. GURLEY, *D'y Cl'k.*

Citation in error.

The United States of America, to James Brown, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington on the first Monday of December next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the 5th circuit and eastern district of Louisiana, wherein Joshua B. Bond, administrator of the estate of Mary Ann Cade, is plaintiff in error, and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ of error

mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Roger B. Taney, chief justice of the Supreme Court of the United States, this twenty-sixth day of June, in [SEAL.] the year of our Lord one thousand eight hundred and forty-nine.

THEO. H. McCALEB, *U. S Judge.*

Marshal's return.

Received June 27th, 1849, and on the 28th June, 1849, in the city of New Orleans, served copy of the within citation in error on James Brown, the defendant in error, in the following manner, to wit, by handing the same to Thomas Gibbs Morgan, esq., attorney at law, and of counsel of James Brown, the defendant in error. The said James Brown, to the best of my knowledge and belief, resides out of the State of Louisiana.

Returned July 2d, 1849.

M. M. THOMAS, *D'y Marshal.*

Circuit court of the United States, for the ninth judicial circuit, holding sessions in and for the eastern district of Louisiana.

To Joseph Aycock, justice of the peace in and for the parish of Terrebonne, State of Louisiana, or any other judge or justice of the peace in and for said parish.

Know ye, that reposing special trust and confidence in your integrity and ability, we hereby authorize and require you, that you call and cause to come before you, Lenfroy Barras, Richard H. Grinage, and John T. Rockwood, and them duly examine on oath, touching and concerning certain matters and things in a case now depending in the said court, wherein James Brown is plaintiff, and J. B. Brown, administrator, &c., is defendant; and the same examinations, so taken and reduced to writing, you certify under your hand and seal, and send enclosed to this court without delay, to be read in evidence on the trial of said cause, and send also this writ.

Witness the honorable chief justice of the Supreme Court of the United States, at the city of New Orleans, this first day of [SEAL.] December, anno domini 1848, and the year of the independence of the United States of America

ED. RANDOLPH, *Clerk.*

JAMES BROWN vs. J. B. BOND, adm'r, &c. } No. 1696.

In the United States circuit court, 5th circuit, district of Louisiana.

Interrogatories to be propounded to the honorable Lenfroy Barras, Richard H. Grinage, and John T. Rockwood, witnesses on behalf of plaintiff, residing in the parish of Terrebonne, State of Louisiana, the answers to which will be offered in evidence on the trial of this cause.

Interrogatory 1st. Did you or did you not know James A. Witherspoon, late of the parish of Terrebonne, deceased?

Interrogatory 2d. If you answer the 1st interrogatory in the affirmative, then please look at the paper (marked A,) herewith exhibited to you, and state whether the signature thereto is or is not in the proper handwriting of him, the said James A. Witherspoon.

Interrogatory 3d. From your knowledge of the handwriting of said James A. Witherspoon, please state whether the whole body of the paper (marked A) is or is not in the proper handwriting of him the said James A. Witherspoon?

Interrogatory 4th. Do you or do you not know the subscribing witnesses to said paper (marked A;) if yea, are they living; where do they reside; have they, or either of them, ever resided in the State of Louisiana; does either of them now reside in said State?

Interrogatory 5th. Did you know W. H. Witherspoon and Elias M. Witherspoon, late of the parish of Terrebonne, deceased; are you acquainted with the handwriting of the said W. H. and Elias M. Witherspoon? Please look at the paper (marked B,) herewith exhibited to you, and state whether you recognise the signatures thereto; and whether the same are or are not the proper signatures of the said W. H. and Elias M. Witherspoon.

Interrogatory 6th. Were or were not the said W. H. and Elias M. Witherspoon sons of the aforesaid James A. Witherspoon; did or did not the said James A. Witherspoon leave one other child, named Mary Jane; did he leave any other legitimate issue; are or are not the said W. H. and Mary Jane now living; if not, did they, or either of them, leave any legitimate issue; did or did not the said Elias M. Witherspoon intermarry with one Mary Ann Cade; was there issue born of that marriage; is or is not the said Elias M. Witherspoon now living; is or is not the issue of his marriage with said Mary Ann Cade living; is or is not the said Mary Ann Cade now living; does or does not the lands, slaves, and personal property contained in the inventory of the estate of Mary Ann Cade, widow of Elias M. Witherspoon, and now or lately administered by J. C. Beaty and by the defendant, consist, in whole or in part, of the lands, slaves and their descendants, and personal property, left by the said James A. Witherspoon, and which was in his possession at the time of his decease?

Interrogatory 7th. Did or did not the said William H. Witherspoon and Elias M. Witherspoon, at and after the decease of their father, the said James A. Witherspoon, take possession of, use, occupy, and enjoy the property of which he, the said James A. Witherspoon, died possessed, as their own?

Interrogatory 8th. What became of the property, lands, slaves, and other of which the said James A. Witherspoon died possessed; who took possession of it after his decease?

Interrogatory 9th. Please state any thing further that may be within your knowledge touching the premises as fully as if specially interrogated.

THOMAS GIBBS MORGAN,
Att'y for Pl'ffs.

To the defendants in the above cause:

You will please take notice that I have taken out a commission to take the answers of the above named witnesses to the foregoing interrogatories, to which you may file cross interrogatories, if you think proper, within the legal delay.

THOMAS GIBBS MORGAN, *Att'y for Pl'ff.*

Document A.

STATE OF MISSISSIPPI, *Franklin county.*

Know all men by these presents that I, Jas. A. Witherspoon, am held and firmly bound unto James Brown, of the county and State aforesaid, in the penal sum of fourteen thousand dollars, good and lawful money of the State aforesaid, to be paid to the said James Brown, his heirs, executors, administrators, or assigns; to which payment, well and truly to be made, I bind myself, my heirs, executors, or administrator or assigns, firmly by these presents. Sealed with my seal, and dated this the 3d day of October, 1825.

Whereas James Brown hath this day given to the said James A. Witherspoon a power of attorney to prosecute and defend, at law or in equity, all the personal property that he, the said James Brown, got by his late deceased wife, Eliza, to wit, twenty-five negro slaves, which are as follows: Green, Milly and her child Venus, Amps, Diamond, Luce, Jim, Grace, Captain, Maria*h* and her two children Henry and Mary; Harry, Esther, Mack, George, Juno, Patsey, Simon, Clier and her two children Jackson and Bartlett; Penny, Silvia, and Cynthia; together with the following described personal property, to wit, two yoke of oxen; also twenty-five head of cattle, more or less, marked with a swallow fork in one year, and a cross and half cross in the other, one wagon; also three head of horses and three head of mules; all the household and kitchen furniture, with the farming utensils. The said James Brown has also this day given to the said James A. Witherspoon a bill of sale of all the above described property.

The condition of the above obligation is such, that the said James A. Witherspoon is to defend all suits that is or may hereafter be instituted at law or in equity against the above described property, in any manner whatsoever; the said James A. Witherspoon to pay all costs that may be accrued in the recovery of said property. And if the said James A. Witherspoon shall well and truly pay to the said James Brown the half of all the slaves so recovered at law, with all the other described property, then this obligation to be void; otherwise to remain in full force and virtue.

JAS. A. WITHERSPOON. [SEAL.]

Signed, sealed, and delivered in presence of—

RUFUS K. KITTERLY,
GRAY BRIGGS.

Document B.

HOUMA, P. TERRBONNE, LA., *May 6th*, 1837.

Mr. JAMES BROWN: DEAR SIR: When we parted last, our promise

was to meet in Liberty, some weeks after, at court, at which time we did not see each other, or since; and if it had not have been for some of my misfortunes, I would have come and seen you. I have been so unfortunate as to lose my mother, and a loss it is; for it appears to have been all the friend I had on earth since.

Since I saw you last, I went to Jackson and saw Mr. Webber, the attorney of my father and you in the case against Bein and others. I have sent my brother to see you about settling the affairs. Our attorney has gained the property, and you can make arrangements for settling with my brother Elias, and I hope to the satisfaction of both parties, as I have every faith in you. If you could so arrange it as to come down when you receive this letter, I would be glad. I would have written to you some time ago, but my brother was coming to Liberty, and I thought it better to wait some time than for it to be miscarried by mail. I sincerely hope we can settle according to the contract between you and my father.

The suit was instituted long since, and caused a great deal of trouble and expense; and I think by your coming down we can arrange matters satisfactory to all. I do wish you would or could come down and see our crops, which are very prospering. Write me as soon as you receive this letter.

Your obedient servant, W. H. WITHERSPOON.

Mr. Brown: Dear sir: I send this letter by mail from Liberty, as I think it unnecessary for me to come down at present. Please write to me. Direct your letter to Meadville, Miss.

I remain, yours, &c., ELIAS M. WITHERSPOON.

State of Louisiana, *parish of Terrebonne.*

Pursuant to the annexed commission to take testimony in a certain cause now pending in the circuit court of the United States, for the ninth judicial circuit, holding sessions in and for the eastern district of Louisiana, wherein James Brown is plaintiff, and J. B. Bond, administrator, is defendant.

Before me, Joseph Aycock, a justice of the peace, in and for the parish of Terrebonne, duly commissioned and sworn, this 29th day of January, A. D. 1849, personally came and appeared Richard H. Grinage, a witness on the part of the plaintiff, and he having been by me first duly sworn upon the holy evangelists, deposeth and saith as follows, to wit:

First interrogatory. Answer. Yes.

Second interrogatory Answer. He thinks that it is the signature of James A. Witherspoon, deceased, at the bottom of the document, marked A; and that the document itself is in the said Witherspoon's handwriting.

Interrogatory 3d. Answer. From his knowledge of the handwriting of James A. Witherspoon, the whole body of the document, marked A, is in the proper handwriting of said Witherspoon.

Interrogatory 4th. Answer. He never knew the subscribing witnesses to the document marked A.

Interrogatory 5th. Answer. He was well acquainted with W. H

Witherspoon and Elias M. Witherspoon, was familiar with their signatures. The document marked B is signed by the said W. H. Witherspoon and Elias M. Witherspoon.

Interrogatory 6th. Answer. W. H. and Elias M. Witherspoon were sons of James A. Witherspoon, deceased. James A. Witherspoon left another child, named Mary Jane. He did not have any other legitimate issue; the said W. H. and Mary Jane Witherspoon are now dead, and neither of them left any legitimate issue. The said Elias M. Witherspoon intermarried with one Mary Ann Cade, and had one child, the issue of that marriage; the said Elias M. Witherspoon is now dead. The issue of his marriage with Mary Ann Cade is also dead. The said Mary Ann Cade is also dead. A portion of the land left by James A. Witherspoon was sold by Mrs. Mary Ann Witherspoon, and the remainder is that mentioned in the inventory of her estate; the negroes and personal property are principally the same that belonged to James A. Witherspoon at the time of his death.

Interrogatory 7th. Answer. They did, and transacted the business of the plantation in the name of their mother, until her decease, at which time they took possession of the property themselves.

Interrogatory 8th. Answer. The property of James A. Witherspoon at his death was taken possession of by his legitimate heirs.

Interrogatory 9th. Answer. Witness does not know of any thing elee that would be of importance to the parties.

R. H. GRINAGE.

Sworn to and subscribed before me, this 29th day of January, 1849.

J. AYCOCK, *Justice of the Peace.*

And also personally came and appeared, on the 29th day of January, 1849, John T. Rockwood, another witness named in said commission, who being first duly sworn by me upon the holy evangelists, deposeth and saith as follows, to wit:

Interrogatory 1st. Answer. No.

Interrogatory 2d. Answer. He knows nothing of this interrogatory.

Interrogatory 3d. Answer. Does not know.

Interrogatory 4th. Answer. He does not know the subscribing witnesses to the document marked A.

Interrogatory 5th. Answer. Witness knew William H. and Elias M. Witherspoon, and was well acquainted with their handwriting; recognises the signatures on the document marked B as their proper signatures.

Interrogatory 6th. Answer. Witness has always understood that W. H. and E. M. Witherspoon were the sons of James A. Witherspoon aforesaid; never knew any other child of said James A. Witherspoon; never knew Mary Jane. W. H. Witherspoon is now dead; W. H. left no issue. Elias M. Witherspoon intermarried with Mary Ann Cade. There was one child of the marriage of Elias M. Witherspoon with Mary Ann Cade; said Mary Ann Cade and her said child are now both dead. For answer to the balance of this interrogatory, witness adopts the answer of the witness R. H. Grinage.

Interrogatory 7th. Answer. Witness does not know.

Interrogatory 8th. Answer. Does not know.

Interrogatory 9th. Answer. Knows of no other fact which would be of importance.

JOHN T. ROCKWOOD.

Sworn to and subscribed before me, this 29th day of January, 1849.

J. AYCOCK, *Justice of the Peace.*

And personally came and appeared also Judge Lenfroy Barras, who, after having been first *him* duly sworn by me upon the holy evangelists, on the said 29th day of January, 1849, deposeth and saith as follows, to wit:

Interrogatory 1st. Answer. I did.

Interrogatory 2d. Answer. He recognises the signature on the document, marked A, as the signature of James A. Witherspoon.

Interrogatory 3d. Answer. From his knowledge of the handwriting of James A. Witherspoon, he knows that the whole body of the paper, marked A, is in the proper handwriting of said James A. Witherspoon.

Interrogatory 4th. Answer. He does not know the subscribing witnesses to the document.

Interrogatory 5th. Answer. He knew W. H. Witherspoon and Elias M. Witherspoon, deceased. He is acquainted with their handwriting to a certain degree only. From his knowledge of their handwriting, he believes the document, marked B, is signed by them in their proper signatures.

Interrogatory 6th. Answer. W. H. and E. M. Witherspoon were sons of James A. Witherspoon. James A. Witherspoon left another child, named Mary Jane. James A. Witherspoon did not leave to witness's knowledge any other legitimate issue. W. H. and Mary Jane Witherspoon are now both dead. Neither W. H. nor Mary Jane Witherspoon ever had any issue. Elias M. Witherspoon intermarried with Mary Ann Cade; a daughter was born of that marriage. Elias M. Witherspoon is now dead; the issue of his marriage with Mary Ann Cade is also dead. Mary Ann Cade is also dead. The lands, slaves, and personal property contained in the inventory of the estate of said Mary Ann Cade, widow of Elias M. Witherspoon, and lately administered by J. C. Beatty and by the defendant, consists in whole or in part of the lands, slaves, and other property left by said James A. Witherspoon at the time of his death.

Interrogatory 7th. Answer. W. H. & E. M. Witherspoon took possession of the property left by their father at the time of his decease, and used and enjoyed the same as their own.

Interrogatory 8th. Answer. The property of which James A. Witherspoon died possessed of, is now in the possession of Bond & Barron. It was taken possession of at the time of his death by his legal heirs, his widow and sons.

Interrogatory 9th. Answer. He knows nothing more.

L. BARRAS.

Sworn to and subscribed before me, this 29th day of January, 1849.

J. AYCOCK, *J. P.*

I, Joseph Aycock, a justice of the peace in and for the parish of Terrebonne, do hereby certify, that the foregoing depositions of Richard H. Grinage, John T. Rockwood, and Lenfroy Barras, were taken at the time mentioned in the caption thereof; that said depositions were reduced to writing by me in presence of the witnesses, and that they, the said witnesses, signed the same in my presence.

Parish of Terrebonne, January 29, 1849.

J. AYCOCK,
Justice of the peace.

(*Copy.*)

NEW ORLEANS, *Dec'r* 20, 1848.

J. H. ILLSLEY, esq., *Donaldsonville:*

DEAR SIR: At the calling of the docket in the United States circuit court on Monday last, I had the case of Brown vs. Bond, administrator of Witherspoon's estate, fixed for trial on Friday, the 2d February, 1849. A few days previously, Mr. Preston inquired whether I would consent to his issuing a raking commission, that is, a commission without naming the witnesses or the place to which it was to be sent. This I declined doing, and assigned, as my reason, that several months had elapsed since the institution of the suit, and that I considered the administrator had already ample time to make inquiries in Mississippi, or elsewhere, and particularly as this was the object on your part in entering into the agreement between yourself, Mr. Elam and myself. Mr. Preston replied, that he was not aware of any agreement between us. This induced me to look more attentively to the answer filed by Mr. Preston and yourself; and it appears to me that you inadvertently put us on the proof of facts which, under the agreement, as I understood it, were not to be required to be proved.

The answer commences as follows: "That he denies that he, or the estate represented by him, is liable for claims against John A. Witherspoon, deceased, or represents his estate, and denies the allegations in the petition contained material to charge the estate administered by him, and requires proof of the documents sued upon, the signatures to which he knows not."

Now, my recollection of the agreement is, in substance, that all the above, except the proof of the signature, was to be admitted; or, more properly, that they were to be considered as proved. You will recollect that we stated our object to be, to avoid the expense of procuring copies of all the mortuary proceedings in the estates of J. A. Witherspoon, his children, and grand-children. This, certainly, was the inducement with us in consenting to the delay in putting the cause at issue, when we had it in our power to take a judgment by default, and urge a trial, if answer was filed at the last term of the court.

On your part, you desired the delay in order that the administrator might have time to inquire into the transaction, and inform himself as to the defence proper to set up.

Please let me hear from you at your earliest leisure. If your recol-

lection of the agreement does not concur with mine, please state what you think it was. As it is possible your other engagements may not permit you to be present when the case comes up, I must beg you to be precise in your reply, in order that there may be no misunderstanding between Mr. Preston and myself. You will at once perceive that, if I have been mistaken in this matter, I must, without a moment's delay, call for copies of the voluminous records of the estates referred to.

Very respectfully, yours, &c.,

Signed, THOMAS GIBBES MORGAN.

DONALDSONVILLE, 27*th Dec'r*, 1848.

Judge T. G. MORGAN:

DEAR SIR: Your letter of the 20th instant, post marked the 22d, was duly received this morning, owing to my absence from home; and I avail myself of the first opportunity to reply to it, and to state to you frankly what was my understanding of the agreement entered into between you and myself in relation to the case of "Brown vs. Bond's administrator."

In your petition you state that James A. Witherspoon died about the year 1837, leaving the following descendants and forced heirs: William H., Elias M., and Mary Jane Witherspoon; that Mary Jane died about the year 1837, without leaving any heirs, either ascending or descending heirs, and her interest in the estate of her father was inherited by William H. and Elias M. Witherspoon, who accepted the succession of their father and sister; that in the year 1840, William H. Witherspoon died, leaving no lineal heirs, and that Elias M. accepted the succession; that Elias M. intermarried with Mary Ann Cade, and had issue one child; that Elias M. died in the year 1842, his wife and child surviving him; that after the decease of Elias M., on or about the year 1842, the child died, unmarried and without leaving legitimate issue; and that the said Mary Ann Cade succeeded to all the rights of said child, consisting of in whole or in part of the estate of James A. Witherspoon; that afterwards Mary Ann Cade died without leaving any issue or other heirs; that afterwards J. C. Beatty was legally appointed administrator of the estate of said Mary Ann; and finally that J. C. Beatty having settled his account as administrator, J. B. Bond was duly named in his stead, and still acts as such.

To prove these several averments it would have been necessary for you to have obtained the mortuary proceedings of the several successions of the different heirs, and successors of James A. Witherspoon, and with this proof I agreed to dispense; that I did not understand by this that I made any admission of the liability of the estate of James A. Witherspoon, or of those who succeeded to his rights, to the plaintiff, James Brown; and I sincerely trust that you did not so understand me, as I have always considered agreements of this kind very sacred, and always religiously adhere to them.

Yours, very respectfully,

JOHN H. ILLSEY.

And afterwards, to wit, on the 27th day of February, 1849, the following entry was made on the minutes of this court:

JAMES BROWN
vs. } 1696.
J. B. BOND, administrator, &c.

The trial of this case being assigned for this day, appeared the respective parties by their counsel, T. G. Morgan, esq., for the plaintiff, and I. T. Preston, esq., for the defendant; when said cause was taken up, and after evidence, it was admitted by the counsel of both parties that the common laws prevail in Mississippi, except when changed by statutes; then the argument proceeded until 3 o'clock, p. m., whereupon the judge ordered that this case be continued until to-morrow, at 10 o'clock, a. m.

And afterwards, to wit, on the 27th day of February, 1849, the following document was filed in this court:

BROWN
vs.
BOND, administrator.

The plaintiff having closed his case and submitted no other testimony than that taken under commission, the bond and letters annexed to his petition, and the records certified from the State of Mississippi, and the letter of Judge Morgan to Mr. Illsley, and the answer, and the whole case being reduced to writing, the defendant prayed the court to render judgment in his favor, on the ground that the plaintiff had not made out a case which entitled him to the relief prayed for, or to any recovery from the defendant.

Clerk's office, circuit court of the United States, fifth circuit and eastern district of Louisiana.

I certify the foregoing twenty-two pages to contain a true copy of the original papers on file in the case of Jas. Brown vs. J. B. Bond, administrator, &c., No. 1696 of the docket of said court.

Witness my hand and seal of said court, at New Orleans, this 19th January, 1850.

[SEAL.]

J. W. GURLEY, *Clerk.*